

BILL ANALYSIS

C.S.H.B. 4485
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law authorizes a magistrate to release a defendant arrested for a fine-only misdemeanor without bond unless the defendant has previously been convicted of a felony or a misdemeanor other than a fine-only misdemeanor. Concerns have been raised that because many municipal judges across the state are not given the defendant's criminal history for higher class crimes and do not have access to that information, judges may unintentionally violate this law when releasing a defendant. C.S.H.B. 4485 seeks to prevent this from happening by removing a provision making this authority inapplicable to certain defendants. Additionally, there is concern that municipal and justice court judges and justices would have to check every case in which a defendant is not in custody to see if bond was posted within the prescribed 48-hour time period following the issuance of the warrant, which is a practical impossibility. The bill seeks to address this concern by clarifying that this time limit applies to defendants who remain in custody.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4485 amends the Code of Criminal Procedure to remove a provision making the authority of a magistrate to release a defendant arrested for a fine-only misdemeanor without bond and to order the defendant to appear at a later date for arraignment inapplicable to a defendant who has previously been convicted of a felony or a misdemeanor other than a fine-only misdemeanor. The bill clarifies that the defendants to whom the following applies are defendants who remain in custody for a fine-only misdemeanor and do not give a required bail bond before the expiration of the 48-hour period following the issuance of the applicable order:

- the justice's or judge's duty to reconsider the requirement for the defendant to give a bail bond and presume that the defendant does not have sufficient resources or income to give the bond; and
- the authorization for the judge or justice to require the defendant to give a personal bond.

C.S.H.B. 4485 repeals Article 45.016(c), Code of Criminal Procedure, as added by Chapter 977 (H.B. 351), Acts of the 85th Legislature, Regular Session, 2017.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4485 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes changes not made in the original clarifying the defendants to whom the following applies when the defendant does not give a required bail bond before the expiration of the 48-hour period after the issuance of the applicable order:

- the duty of the applicable justice or judge to reconsider the requirement for the defendant to give a bail bond and presuming that the defendant does not have sufficient resources or income to give the bond; and
- the authorization for the justice or judge to require the defendant to give a personal bond.

The substitute repeals Article 45.016(c), Code of Criminal Procedure, as added by Chapter 977 (H.B. 351), Acts of the 85th Legislature, Regular Session, 2017, which was not repealed by the original.