

**SUBJECT:** Discharging bail bonds obligations if accused in federal custody

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 7 ayes — Collier, K. Bell, Cason, Cook, Crockett, Murr, Vasut

0 nays

2 absent — Hinojosa, A. Johnson

**WITNESSES:** None

**BACKGROUND:** Code of Criminal Procedure art 17.16 establishes certain circumstances when sureties, also known as bail bonds agents, may be relieved of their obligation on the bond by bringing a criminal defendant to the sheriff or other law enforcement custody.

Sureties may be relieved of their obligations by delivering to the sheriff and prosecutor in the case an affidavit stating that the accused was incarcerated in federal custody. Under art. 17.16(a-1), this does not apply if the accused was in federal custody to determine whether the individual was lawfully present in the United States. In these situations, sureties would not be relieved of their obligation.

Concerns have been raised that these provisions may make it difficult for some defendants to obtain a bond to be released from jail, straining the capacity of some jails.

**DIGEST:** HB 2448 would allow sureties to be relieved of their obligation on a bail bond if the accused was in federal custody to determine lawful presence in the United States.

The bill would take effect September 1, 2021, and would apply only to bail bonds executed on or after that date.