

CHAPTER 968

H.B. No. 44

An Act relating to the time at which a defendant whose conviction is reversed by a court of appeals is entitled to bail pending determination of a petition for discretionary review.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 44.04(h), Code of Criminal Procedure, 1965, is amended to read as follows:

(h) ~~If [When] a conviction is reversed by a decision of a Court of Appeals [and the State files a petition for discretionary review, or a motion for an extension of time in which to file a petition for discretionary review], the defendant, if in custody, is [shall be] entitled to release on reasonable bail, regardless of the length of term of imprisonment, pending final determination of an [the] appeal by the state or the defendant on a motion for discretionary review. If the defendant requests bail before a petition for discretionary review has been filed, the Court of Appeals shall determine the amount of bail. If the defendant requests bail after a petition for discretionary review has been filed, the [The] Court of Criminal Appeals shall determine the amount of bail. The [; but the] sureties on the bail must be approved by the court where the trial was had. The defendant's right to release under this subsection attaches immediately on the issuance of the Court of Appeals' final ruling as defined by Tex. Cr. App. R. 209(c).~~

SECTION 2. The change in law made by this Act applies to any defendant in confinement after the defendant's conviction has been reversed, including a defendant in confinement on the effective date of this Act whose conviction was reversed before that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 4, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 44 on May 25, 1985, by a non-record vote; passed by the Senate, with amendments, on May 23, 1985, by the following vote: Yeas 29, Nays 1.

Filed: June 16, 1985, filed without signature.

Effective: August 26, 1985