

CODE OF CRIMINAL PROCEDURE

CHAPTER 17. BAIL

ART. 17.01. DEFINITION OF "BAIL"

"Bail" is the security given by the accused that he will appear and answer before the proper court the accusation brought against him, and includes a bail bond or a personal bond.

2021 LEGISLATIVE NOTE

In the second special session of 2021, the Texas legislature passed SB 6, which contains changes to the bail bond system in Texas, and SB 1, which made changes to election law and related statutes. Most provisions take effect Dec. 2, 2021 or Jan. 1, 2022, so be sure to read the effective date language on each amended statute. Amendments made in the 87th Regular Session are also included in this PDF file. Other Code of Criminal Procedure statutes affected by SB 6 or SB 1 are included after Chapter 17.

ART. 17.02. DEFINITION OF "BAIL BOND"

A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article shall be receipted for by the officer receiving the funds and, on order of the court, be refunded in the amount shown on the face of the receipt less the administrative fee authorized by Section 117.055, Local Government Code, if applicable, after the defendant complies with the conditions of the defendant's bond, to:

- (1) any person in the name of whom a receipt was issued, including the defendant if a receipt was issued to the defendant; or
- (2) the defendant, if no other person is able to produce a receipt for the funds.

Amended effective Dec. 2, 2021 (SB 6, §4, 87th Leg., Second Called Session, 2021). Section 24 of SB 6 provides: "The changes in law made by this Act apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose."

ART. 17.021. PUBLIC SAFETY REPORT SYSTEM

(a) The Office of Court Administration of the Texas Judicial System shall develop and maintain a public safety report system that is available for use for purposes of Article 17.15.

(b) The public safety report system must:

- (1) state the requirements for setting bail under Article 17.15 and list each factor provided by Article 17.15(a);
- (2) provide the defendant's name and date of birth or, if impracticable, other identifying information, the cause number of the case, if available, and the offense for which the defendant was arrested;
- (3) provide information on the eligibility of the defendant for a personal bond;
- (4) provide information regarding the applicability of any required or discretionary bond conditions;
- (5) provide, in summary form, the criminal history of the defendant, including information regarding any:

(A) previous misdemeanor or felony convictions;

(B) pending charges;

(C) previous sentences imposing a term of confinement;

(D) previous convictions or pending charges for:

(i) offenses that are offenses involving violence as defined by Article 17.03; or

(ii) offenses involving violence directed against a peace officer; and

(E) previous failures of the defendant to appear in court following release on bail; and

(6) be designed to collect and maintain the information provided on a bail form submitted under Section 72.038, Government Code.

(c) The office shall provide access to the public safety report system to the appropriate officials in each county and each municipality at no cost. This subsection may not be construed to require the office to provide an official or magistrate with any equipment or support related to accessing or using the public safety report system.

(d) The public safety report system may not:

(1) be the only item relied on by a judge or magistrate in making a bail decision;

(2) include a score, rating, or assessment of a defendant's risk or make any recommendation regarding the appropriate bail for the defendant; or

(3) include any information other than the information listed in Subsection (b).

(e) The office shall use the information maintained under Subsection (b)(6) to collect data from the preceding state fiscal year regarding the number of defendants for whom bail was set after arrest, including:

(1) the number for each category of offense;

(2) the number of personal bonds; and

(3) the number of monetary bonds.

(f) Not later than December 1 of each year, the office shall submit a report containing the data described by Subsection (e) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

(g) The Department of Public Safety shall assist the office in implementing the public safety report system established under this article and shall provide criminal history record information to the office in the electronic form necessary for the office to implement this article.

(h) Any contract for goods or services between the office and a vendor that may be necessary or appropriate to develop the public safety report system is exempt from the requirements of Subtitle D, Title 10, Government Code. This subsection expires September 1, 2022.

Enacted effective Dec. 2, 2021 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02. Section 21 of SB 6 provides: "As soon as practicable but not later than April 1, 2022, the Office of Court Administration of the Texas Judicial System shall create the public safety report system developed under Article 17.021, Code of Criminal Procedure, as added by this Act, and any related forms and materials and shall provide to the appropriate officials in each county and each municipality access to the system, forms, and materials at no cost. If those items are made available before April 1, 2022, the office shall notify each

court clerk, judge or other magistrate, and office of an attorney representing the state.”

ART. 17.022. PUBLIC SAFETY REPORT

(a) A magistrate considering the release on bail of a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense shall order that:

- (1) the personal bond office established under Article 17.42 for the county in which the defendant is being detained, if a personal bond office has been established for that county, or other suitably trained person including judicial personnel or sheriff's department personnel, use the public safety report system developed under Article 17.021 to prepare a public safety report with respect to the defendant; and
- (2) the public safety report prepared under Subdivision (1) be provided to the magistrate as soon as practicable but not later than 48 hours after the defendant's arrest.

(b) A magistrate may not, without the consent of the sheriff, order a sheriff or sheriff's department personnel to prepare a public safety report under this article.

(c) Notwithstanding Subsection (a), a magistrate may personally prepare a public safety report, before or while making a bail decision, using the public safety report system developed under Article 17.021.

(d) The magistrate shall:

- (1) consider the public safety report before setting bail; and
- (2) promptly but not later than 72 hours after the time bail is set, submit the bail form described by Section 72.038, Government Code, in accordance with that section.

(e) In the manner described by this article, a magistrate may, but is not required to, order, prepare, or consider a public safety report in setting bail for a defendant charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c). If ordered, the report shall be prepared for the time and place for an appearance as indicated in the citation.

(f) A magistrate may set bail for a defendant charged only with an offense punishable as a misdemeanor without ordering, preparing, or considering a public safety report if the public safety report system is unavailable for longer than 12 hours due to a technical failure at the Office of Court Administration of the Texas Judicial System.

Enacted effective Jan. 1, 2022 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.023. AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES

(a) This article applies only to a defendant charged with an offense that is:

- (1) punishable as a felony; or
- (2) a misdemeanor punishable by confinement.

(b) Notwithstanding any other law, a defendant to whom this article applies may be released on bail only by a magistrate who is:

- (1) any of the following:
 - (A) a resident of this state;
 - (B) a justice of the peace serving under Section 27.054 or 27.055, Government Code; or
 - (C) a judge or justice serving under Chapter 74, Government Code; and
- (2) in compliance with the training requirements of Article 17.024.

(c) A magistrate is not eligible to release on bail a defendant described by Subsection (a) if the magistrate:

(1) has been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the magistrate's court; or

(2) has resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct have been instituted as provided by Section 33.022, Government Code, and before final disposition of the proceedings.

Enacted effective Jan. 1, 2022 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.024. TRAINING ON DUTIES REGARDING BAIL

(a) The Office of Court Administration of the Texas Judicial System shall, in consultation with the court of criminal appeals, develop or approve training courses regarding a magistrate's duties, including duties with respect to setting bail in criminal cases. The courses developed must include:

(1) an eight-hour initial training course that includes the content of the applicable training course described by Article 17.0501; and

(2) a two-hour continuing education course.

(b) The office shall provide for a method of certifying that a magistrate has successfully completed a training course required under this article and has demonstrated competency of the course content in a manner acceptable to the office.

(c) A magistrate is in compliance with the training requirements of this article if:

(1) not later than the 90th day after the date the magistrate takes office, the magistrate successfully completes the course described by Subsection (a)(1);

(2) the magistrate successfully completes the course described by Subsection (a)(2) in each subsequent state fiscal biennium in which the magistrate serves; and

(3) the magistrate demonstrates competency as provided by Subsection (b).

(c-1) Notwithstanding Subsection (c), a magistrate who is serving on April 1, 2022, is considered to be in compliance with Subsection (c)(1) if the magistrate successfully completes the training course not later than December 1, 2022. This subsection expires May 1, 2023.

(d) Any course developed or approved by the office under this article may be administered by the Texas Justice Court Training Center, the Texas Municipal Courts Education Center, the Texas Association of Counties, the Texas Center for the Judiciary, or a similar entity.

Enacted effective Dec. 2, 2021 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.025. OFFICERS TAKING BAIL BOND

A jailer licensed under Chapter 1701, Occupations Code, is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under this chapter.

ART. 17.026. ELECTRONIC FILING OF BAIL BOND

In any manner permitted by the county in which the bond is written, a bail bond may be filed electronically with the court, judge, magistrate, or other officer taking the bond.

ART. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE COMMITTED WHILE ON BAIL

(a) Notwithstanding any other law:

(1) if a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, the defendant may be released on bail only by:

(A) the court before whom the case for the previous offense is pending; or

(B) another court designated in writing by the court described by Paragraph (A); and

(2) if a defendant is charged with committing an offense punishable as a felony while released on bail for another pending offense punishable as a felony and the subsequent offense was committed in a different county than the previous offense, electronic notice of the charge must be promptly given to the court specified by Subdivision (1) for purposes of reevaluating the bail decision, determining whether any bail conditions were violated, or taking any other applicable action.

(b) This article may not be construed to extend any deadline provided by Article 15.17.

Enacted effective Jan. 1, 2022 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.028. BAIL DECISION

(a) Without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order, after individualized consideration of all circumstances and of the factors required by Article 17.15(a), that the defendant be:

(1) granted personal bond with or without conditions;

(2) granted surety or cash bond with or without conditions; or

(3) denied bail in accordance with the Texas Constitution and other law.

(b) In setting bail under this article, the magistrate shall impose the least restrictive conditions, if any, and the personal bond or cash or surety bond necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c) In each criminal case, unless specifically provided by other law, there is a rebuttable presumption that bail, conditions of release, or both bail and conditions of release are sufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c-1) Subsections (b) and (c) may not be construed as requiring the court to hold an evidentiary hearing that is not required by other law.

(d) A judge may not adopt a bail schedule or enter a standing order related to bail that:

(1) is inconsistent with this article; or

(2) authorizes a magistrate to make a bail decision for a defendant without considering each of the factors in Article 17.15(a).

(e) A defendant who is denied bail or who is unable to give bail in the amount required by any bail schedule or standing order related to bail shall be provided with the warnings described by Article 15.17.

(f) A defendant who is charged with an offense punishable as a Class B misdemeanor or any higher category of offense and who is unable to give bail in the amount required by a schedule or

order described by Subsection (e), other than a defendant who is denied bail, shall be provided with the opportunity to file with the applicable magistrate a sworn affidavit in substantially the following form:

"On this _____ day of _____, 2____, I have been advised by _____ (name of the court or magistrate, as applicable) of the importance of providing true and complete information about my financial situation in connection with the charge pending against me. I am without means to pay _____ and I hereby request that an appropriate bail be set. (signature of defendant)."

(g) A defendant filing an affidavit under Subsection (f) shall complete a form to allow a magistrate to assess information relevant to the defendant's financial situation. The form must be the form used to request appointment of counsel under Article 26.04 or a form promulgated by the Office of Court Administration of the Texas Judicial System that collects, at a minimum and to the best of the defendant's knowledge, the information a court may consider under Article 26.04(m).

(g-1) The magistrate making the bail decision under Subsection (a) shall, if applicable:

(1) inform the defendant of the defendant's right to file an affidavit under Subsection (f); and

(2) ensure that the defendant receives reasonable assistance in completing the affidavit described by Subsection (f) and the form described by Subsection (g).

(h) A defendant described by Subsection (f) may file an affidavit under Subsection (f) at any time before or during the bail proceeding under Subsection (a). A defendant who files an affidavit under Subsection (f) is entitled to a prompt review by the magistrate on the bail amount. The review may be conducted by the magistrate making the bail decision under Subsection (a) or may occur as a separate pretrial proceeding. The magistrate shall consider the facts presented and the rules established by Article 17.15(a) and shall set the defendant's bail. If the magistrate does not set the defendant's bail in an amount below the amount required by the schedule or order described by Subsection (e), the magistrate shall issue written findings of fact supporting the bail decision.

(i) The judges of the courts trying criminal cases and other magistrates in a county must report to the Office of Court Administration of the Texas Judicial System each defendant for whom a review under Subsection (h) was not held within 48 hours of the defendant's arrest. If a delay occurs that will cause the review under Subsection (h) to be held later than 48 hours after the defendant's arrest, the magistrate or an employee of the court or of the county in which the defendant is confined must provide notice of the delay to the defendant's counsel or to the defendant, if the defendant does not have counsel.

(j) The magistrate may enter an order or take other action authorized by Article 16.22 with respect to a defendant who does not appear capable of executing an affidavit under Subsection (f).

(k) This article may not be construed to require the filing of an affidavit before a magistrate considers the defendant's ability to make bail under Article 17.15.

(l) A written or oral statement obtained under this article or evidence derived from the statement may be used only to determine whether the defendant is indigent, to impeach the direct testimony of the defendant, or to prosecute the defendant for an offense under Chapter 37, Penal Code.

(m) Notwithstanding Subsection (a), a magistrate may make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who re-

ceives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).

Enacted effective Jan. 1, 2022 (SB 6, §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02. Section 22 of SB 6 provides: “(a) As soon as practicable but not later than April 1, 2022, the Office of Court Administration of the Texas Judicial System shall:

“(1) promulgate the forms required by Articles 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by this Act, and by Section 72.038, Government Code, as added by this Act; and

“(2) develop or approve and make available the training courses and certification method as described by Article 17.024, Code of Criminal Procedure, as added by this Act, and develop the procedures and prescribe the forms required by Article 17.53, Code of Criminal Procedure, as added by this Act.

“(b) If the items described by Subsection (a) of this section are made available before April 1, 2022, the office shall notify each court clerk, judge or other magistrate, and office of an attorney representing the state.”

ART. 17.03. PERSONAL BOND

(a) Except as provided by Subsection (b) or (b-1), a magistrate may, in the magistrate's discretion, release the defendant on personal bond without sureties or other security.

(b) Only the court before whom the case is pending may release on personal bond a defendant who:

(1) is charged with an offense under the following sections of the Penal Code:

- (A) ~~[Section 19.03 (Capital Murder);~~
- ~~[(B) Section 20.04 (Aggravated Kidnapping);~~
- ~~[(C) Section 22.021 (Aggravated Sexual Assault);~~
- ~~[(D) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant);~~
- ~~[(E) Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);~~
- ~~[(F) Section 29.03 (Aggravated Robbery);~~
- ~~[(G) Section 30.02 (Burglary); or~~
- ~~[(H) Section 31.02 (Engaging in Organized Criminal Activity);~~
- ~~[(I) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual (Children)); or~~
- ~~[(J) Section 20A.03 (Continuous Trafficking of Persons);~~

(2) is charged with a felony under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code, punishable by imprisonment for a minimum term or by a maximum fine that is more than a minimum term or maximum fine for a first degree felony; or

(3) does not submit to testing for the presence of a controlled substance in the defendant's body as requested by the court or magistrate under Subsection (c) of this article or submits to testing and the test shows evidence of the presence of a controlled substance in the defendant's body.

(b-1) A magistrate may not release on personal bond a defendant who, at the time of the commission of the charged offense, is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code.

(b-2) Except as provided by Articles 15.21, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1) is charged with an offense involving violence; or

(2) while released on bail or community supervision for an offense involving violence, is charged with committing:

(A) any offense punishable as a felony; or

(B) an offense under the following provisions of the Penal Code:

(i) Section 22.01(a)(1) (assault);

(ii) Section 22.05 (deadly conduct);

(iii) Section 22.07 (terroristic threat); or

(iv) Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

(b-3) In this article:

(1) “Controlled substance” has the meaning assigned by Section 481.002, Health and Safety Code.

(2) “Offense involving violence” means an offense under the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 20.03 (kidnapping);

(D) Section 20.04 (aggravated kidnapping);

(E) Section 20A.02 (trafficking of persons);

(F) Section 20A.03 (continuous trafficking of persons);

(G) Section 21.02 (continuous sexual abuse of young child or disabled individual);

(H) Section 21.11 (indecency with a child);

(I) Section 22.01(a)(1) (assault), if the offense is:

(i) punishable as a felony of the second degree under Subsection (b-2) of that section; or

(ii) punishable as a felony and involved family violence as defined by Section 71.004, Family Code;

(J) Section 22.011 (sexual assault);

(K) Section 22.02 (aggravated assault);

(L) Section 22.021 (aggravated sexual assault);

(M) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(N) Section 25.072 (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);

(O) Section 25.11 (continuous violence against the family);

(P) Section 29.03 (aggravated robbery);

(Q) Section 38.14 (taking or attempting to take weapon from peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer);

(R) Section 43.04 (aggravated promotion of prostitution), if the defendant is not alleged to have engaged in conduct constituting an offense under Section 43.02(a);

(S) Section 43.05 (compelling prostitution); or

(T) Section 43.25 (sexual performance by a child).

(c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate shall require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will serve to reasonably assure the appearance of the defendant for trial.

(d) The state may not use the results of any test conducted under this chapter in any criminal proceeding arising out of the offense

for which the defendant is charged.

(e) Costs of testing may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

~~[(f) In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.]~~

(g) The court may order that a personal bond fee assessed under Section 17.42 be:

- (1) paid before the defendant is released;
- (2) paid as a condition of bond;
- (3) paid as court costs;
- (4) reduced as otherwise provided for by statute; or
- (5) waived.

Amendments to (b) and addition of (b-2) & (b-3) effective Dec. 2, 2021 (SB 6(a), §5, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02. Section 6(b) of SB 6 provides: "This section takes effect on the 91st day after the last day of the legislative session if this Act does not receive a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, this section has no effect."

Repeal of (f) effective Dec. 2, 2021 (SB 6, §20, 87th Leg., Second Called Session, 2021).

ART. 17.031. RELEASE ON PERSONAL BOND

(a) Any magistrate in this state may release a defendant eligible for release on personal bond under Article 17.03 of this code on his personal bond where the complaint and warrant for arrest does not originate in the county wherein the accused is arrested if the magistrate would have had jurisdiction over the matter had the complaint arisen within the county wherein the magistrate presides. The personal bond may not be revoked by the judge of the court issuing the warrant for arrest except for good cause shown.

(b) If there is a personal bond office in the county from which the warrant for arrest was issued, the court releasing a defendant on his personal bond will forward a copy of the personal bond to the personal bond office in that county.

ART. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY

(a) In this article, "violent offense" means an offense under the following sections of the Penal Code:

- (1) Section 19.02 (murder);
- (2) Section 19.03 (capital murder);
- (3) Section 20.03 (kidnapping);
- (4) Section 20.04 (aggravated kidnapping);
- (5) Section 21.11 (indecent with a child);
- (6) Section 22.01(a)(1) (assault), if the offense involved family violence as defined by Section 71.004, Family Code;
- (7) Section 22.011 (sexual assault);
- (8) Section 22.02 (aggravated assault);
- (9) Section 22.021 (aggravated sexual assault);
- (10) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (11) Section 29.03 (aggravated robbery);
- (12) Section 21.02 (continuous sexual abuse of young child or disabled individual ~~[children]~~); or
- (13) Section 20A.03 (continuous trafficking of persons).

(b) Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a magistrate shall

release a defendant on personal bond unless good cause is shown otherwise if:

- (1) the defendant is not charged with and has not been previously convicted of a violent offense;
- (2) the defendant is examined by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert under Article 16.22;
- (3) the applicable expert, in a written report submitted to the magistrate under Article 16.22:
 - (A) concludes that the defendant has a mental illness or is a person with an intellectual disability and is nonetheless competent to stand trial; and
 - (B) recommends mental health treatment or intellectual and developmental disability services for the defendant, as applicable;
- (4) the magistrate determines, in consultation with the local mental health authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual and developmental disability services for the defendant are available in accordance with Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual and developmental disability services provider; and
- (5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(c) The magistrate, unless good cause is shown for not requiring treatment or services, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health treatment or intellectual and developmental disability services as recommended by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert if the defendant's:

- (1) mental illness or intellectual disability is chronic in nature; or
- (2) ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

(d) In addition to a condition of release imposed under Subsection (c), the magistrate may require the defendant to comply with other conditions that are reasonably necessary to ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(e) In this article, a person is considered to have been convicted of an offense if:

- (1) a sentence is imposed;
- (2) the person is placed on community supervision or receives deferred adjudication; or
- (3) the court defers final disposition of the case.

Amendment to (a)(12) effective Sept. 1, 2021 (HB 375, §2.09).

ART. 17.033. RELEASE ON BOND OF CERTAIN PERSONS ARRESTED WITHOUT A WARRANT

(a) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$5,000, not later than the 24th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in an amount of the bond, the person must be released on personal bond.

(b) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$10,000, not later than the 48th hour after the person's arrest if the person was arrested for a felony and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a) or (b) for not more than 72 hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a) and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a) and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

ART. 17.04. REQUISITES OF A PERSONAL BOND

(a) A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In addition, a personal bond shall contain:

- (1) the defendant's name, address, and place of employment;
- (2) identification information, including the defendant's:
 - (A) date and place of birth;
 - (B) height, weight, and color of hair and eyes;
 - (C) driver's license number and state of issuance, if any; and
 - (D) nearest relative's name and address, if any; and

(3) except as provided by Subsection (b), the following oath sworn and signed by the defendant:

"I swear that I will appear before (the court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a.m. or p.m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear."

(b) A personal bond is not required to contain the oath described by Subsection (a)(3) if:

- (1) the magistrate makes a determination under Article 16.22 that the defendant has a mental illness or is a person with an intellectual disability, including by using the results of a previous determination under that article;
- (2) the defendant is released on personal bond under Article 17.032; or

(3) the defendant is found incompetent to stand trial in accordance with Chapter 46B.

Amendments to (a) and addition of (b) effective Sept. 1, 2021 (SB 49, §3). Section 13 of SB 49 provides: "The change in law made by this Act to Article 17.04, Code of Criminal Procedure, applies only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of this Act is governed by the law in effect on the date the personal bond was executed, and the former law is continued in effect for that purpose."

ART. 17.045. BAIL BOND CERTIFICATES

A bail bond certificate with respect to which a fidelity and surety company has become surety as provided in the Automobile Club Services Act, or for any truck and bus association incorporated in this state, when posted by the person whose signature appears thereon, shall be accepted as bail bond in an amount not to exceed \$200 to guarantee the appearance of such person in any court in this state when the person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state, except for the offense of driving while intoxicated or for any felony, and the alleged violation was committed prior to the date of expiration shown on such bail bond certificate.

ART. 17.05. WHEN A BAIL BOND IS GIVEN

A bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant by a peace officer or jailer if authorized by Article 17.20, 17.21, or 17.22.

ART. 17.0501. REQUIRED TRAINING

The Department of Public Safety shall develop training courses that relate to the use of the statewide telecommunications system maintained by the department and that are directed to each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under this chapter, as necessary to enable the person to fulfill those requirements.

Enacted effective Jan. 1, 2022 (SB 6, §8, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.06. CORPORATION AS SURETY

Wherever in this Chapter, any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety, subject to all the provisions of this Chapter regulating and governing the giving of bail bonds by personal surety insofar as the same is applicable.

ART. 17.07. CORPORATION TO FILE WITH COUNTY CLERK POWER OF ATTORNEY DESIGNATING AGENT

(a) Any corporation authorized by the law of this State to act as a surety, shall before executing any bail bond as authorized in the preceding Article, first file in the office of the county clerk of the county where such bail bond is given, a power of attorney designating and authorizing the named agent, agents or attorney of such corporation to execute such bail bonds and thereafter the execution of such bail bonds by such agent, agents or attorney, shall be a valid and binding obligation of such corporation.

(b) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk.

ART. 17.071. CHARITABLE BAIL ORGANIZATIONS

(a) In this article, “charitable bail organization” means a person who accepts and uses donations from the public to deposit money with a court in the amount of a defendant’s bail bond. The term does not include:

(1) a person accepting donations with respect to a defendant who is a member of the person’s family, as determined under Section 71.003, Family Code; or

(2) a nonprofit corporation organized for a religious purpose.

(b) This article does not apply to a charitable bail organization that pays a bail bond for not more than three defendants in any 180-day period.

(c) A person may not act as a charitable bail organization for the purpose of paying a defendant’s bail bond in a county unless the person:

(1) is a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and

(2) has been issued a certificate under Subsection (d) with respect to that county.

(d) A county clerk shall issue to a charitable bail organization a certificate authorizing the organization to pay bail bonds in the county if the clerk determines the organization is:

(1) a nonprofit organization described by Subsection (c)(1); and

(2) current on all filings required by the Internal Revenue Code.

(e) A charitable bail organization shall file in the office of the county clerk of each county where the organization intends to pay bail bonds an affidavit designating the individuals authorized to pay bonds on behalf of the organization.

(f) Not later than the 10th day of each month, a charitable bail organization shall submit, to the sheriff of each county in which the organization files an affidavit under Subsection (e), a report that includes the following information for each defendant for whom the organization paid a bail bond in the preceding calendar month:

(1) the name of the defendant;

(2) the cause number of the case;

(3) the county in which the applicable charge is pending, if different from the county in which the bond was paid; and

(4) any dates on which the defendant has failed to appear in court as required for the charge for which the bond was paid.

(f-1) A sheriff who receives a report under Subsection (f) shall provide a copy of the report to the Office of Court Administration of the Texas Judicial System.

(g) A charitable bail organization may not pay a bail bond for a defendant at any time the organization is considered to be out of compliance with the reporting requirements of this article.

(h) The sheriff of a county may suspend a charitable bail organization from paying bail bonds in the county for a period not to exceed one year if the sheriff determines the organization has paid one or more bonds in violation of this article and the organization has received a warning from the sheriff in the preceding 12-month period for another payment of bond made in violation of this article. The sheriff shall report the suspension to the Office of Court Administration of the Texas Judicial System.

(i) Chapter 22 applies to a bail bond paid by a charitable bail organization.

(j) A charitable bail organization may not accept a premium or compensation for paying a bail bond for a defendant.

(k) Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall prepare and submit, to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary, a report regarding the information submitted to the office under Subsections (f-1) and (h) for the preceding state fiscal year.

Enacted effective Jan. 1, 2022 (SB 6, §9, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.08. REQUISITES OF A BAIL BOND

A bail bond must contain the following requisites:

1. That it be made payable to “The State of Texas”;

2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;

3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;

4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;

5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where, his presence may be required under this Code or by any court or magistrate, but in no event shall the sureties be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge;

6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the conditions of his bond.

ART. 17.081. ADDITIONAL REQUISITES OF BAIL BOND GIVEN BY CERTAIN DEFENDANTS

In addition to the requirements of Article 17.08, a bail bond for a defendant charged with an offense under Section 20A.02, 20A.03, 43.02, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code, must include the address, identification number, and state of issuance as shown on a valid driver’s license or identification card for the defendant and any surety, including any agent executing the bail bond on behalf of a corporation acting as surety.

Enacted effective Sept. 1, 2021 (HB 1005, §1). Section 4 of HB 1005 provides: “Article 17.081, Code of Criminal Procedure, as added by this Act, applies only to a bail bond that is executed on or after the effective date of this Act. A bail bond executed before the effective date of this Act is governed by the law in effect on the date the bail bond was executed, and the former law is continued in effect for that purpose.”

ART. 17.085. NOTICE OF APPEARANCE DATE

The clerk of a court that does not provide online Internet access to that court's criminal case records shall post in a designated public place in the courthouse notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting.

ART. 17.09. DURATION; ORIGINAL AND SUBSEQUENT PROCEEDINGS; NEW BAIL

Sec. 1. Where a defendant, in the course of a criminal action, gives bail before any court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond shall be valid and binding upon the defendant and his sureties, if any, thereon, for the defendant's personal appearance before the court or magistrate designated therein, as well as before any other court to which same may be transferred, and for any and all subsequent proceedings had relative to the charge, and each such bond shall be so conditioned except as hereinafter provided.

Sec. 2. When a defendant has once given bail for his appearance in answer to a criminal charge, he shall not be required to give another bond in the course of the same criminal action except as herein provided.

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause, such judge or magistrate may, either in term-time or in vacation, order the accused to be rearrested, and require the accused to give another bond in such amount as the judge or magistrate may deem proper. When such bond is so given and approved, the defendant shall be released from custody.

Sec. 4. Notwithstanding any other provision of this article, the judge or magistrate in whose court a criminal action is pending may not order the accused to be rearrested or require the accused to give another bond in a higher amount because the accused: (1) withdraws a waiver of the right to counsel; or (2) requests the assistance of counsel, appointed or retained.

ART. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED

Before a judge or magistrate reduces the amount of bail set for a defendant charged with an offense listed in Article 42A.054, an offense described by Article 62.001(5), or an offense under Section 20A.03, Penal Code, the judge or magistrate shall provide:

- (1) to the attorney representing the state, reasonable notice of the proposed bail reduction; and
- (2) on request of the attorney representing the state or the defendant or the defendant's counsel, an opportunity for a hearing concerning the proposed bail reduction.

ART. 17.10. DISQUALIFIED SURETIES

(a) A minor may not be surety on a bail bond, but the accused party may sign as principal.

(b) A person, for compensation, may not be a surety on a bail bond written in a county in which a county bail bond board regulated under Chapter 1704, Occupations Code, does not exist unless the person, within two years before the bail bond is given, completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are:

- (1) approved by the State Bar of Texas; and
- (2) offered by an accredited institution of higher education in this state.

(c) A person, for compensation, may not act as a surety on a bail bond if the person has been finally convicted of:

- (1) a misdemeanor involving moral turpitude; or
- (2) a felony.

ART. 17.11. HOW BAIL BOND IS TAKEN

Sec. 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a resident of this state, and has property therein liable to execution worth the sum for which he is bound.

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as the person is in default on the bond. It shall be the duty of the clerk of the court where the surety is in default on a bail bond to notify in writing the sheriff, chief of police, or other peace officer of the default. If a bail bond is taken for an offense other than a Class C misdemeanor, the clerk of the court where the surety is in default on the bond shall send notice of the default by certified mail to the last known address of the surety.

Sec. 3. A surety is considered to be in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedeas bond.

ART. 17.12. EXEMPT PROPERTY

The property secured by the Constitution and laws from forced sale shall not, in any case, be held liable for the satisfaction of bail, either as to principal or sureties, if any.

ART. 17.13. SUFFICIENCY OF SURETIES ASCERTAINED

To test the sufficiency of the security offered to any bail bond, unless the court or officer taking the same is fully satisfied as to its sufficiency, the following oath shall be made in writing and subscribed by the sureties:

"I, do swear that I am worth, in my own right, at least the sum of (here insert the amount in which the surety is bound), after deducting from my property all that which is exempt by the Constitution and Laws of the State from forced sale, and after the payment of all my debts of every description, whether individual or security debts, and after satisfying all encumbrances upon my property which are known to me; that I reside in County, and have property in this State liable to execution worth said amount or more.

(Dated, and attested by the judge of the court, clerk, magistrate or sheriff.)"

Such affidavit shall be filed with the papers of the proceedings.

ART. 17.14. AFFIDAVIT NOT CONCLUSIVE

Such affidavit shall not be conclusive as to the sufficiency of the security; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered, further evidence shall be required before approving the same.

ART. 17.141. ELIGIBLE BAIL BOND SURETIES IN CERTAIN COUNTIES

In a county in which a county bail bond board regulated under Chapter 1704, Occupations Code, does not exist, the sheriff may

post a list of eligible bail bond sureties whose security has been determined to be sufficient. Each surety listed under this article must file annually a sworn financial statement with the sheriff.

ART. 17.15. RULES FOR SETTING ~~[FIXING]~~ AMOUNT OF BAIL

(a) The amount of bail and any conditions of bail to be required in any case in which the defendant has been arrested ~~are~~ is to be regulated by the court, judge, magistrate, or officer taking the bail in accordance with Articles 17.20, 17.21, and 17.22 and ~~they~~ are ~~[to be]~~ governed [in the exercise of this discretion] by the Constitution and ~~[by]~~ the following rules:

1. Bail and any conditions of bail ~~[The bail]~~ shall be sufficient ~~[sufficiently high]~~ to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be ~~[so]~~ used ~~[as]~~ to make bail ~~[it]~~ an instrument of oppression.
3. The nature of the offense and the circumstances under which the offense ~~[it]~~ was committed are to be considered, including whether the offense:

(A) is an offense involving violence as defined by Article 17.03; or

(B) involves violence directed against a peace officer.

4. The ability to make bail shall ~~[is to]~~ be considered ~~[regarded]~~, and proof may be taken on ~~[upon]~~ this point.
5. The future safety of a victim of the alleged offense, law enforcement, and the community shall be considered.
6. The criminal history record information for the defendant, including information obtained through the statewide telecommunications system maintained by the Department of Public Safety and through the public safety report system developed under Article 17.021, shall be considered, including any acts of family violence, other pending criminal charges, and any instances in which the defendant failed to appear in court following release on bail.
7. The citizenship status of the defendant shall be considered.

(a-1) Notwithstanding any other law, the duties imposed by Subsection (a)(6) with respect to obtaining and considering information through the public safety report system do not apply until April 1, 2022. This subsection expires June 1, 2022.

(b) Vacant

(c) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

Amended effective Dec. 2, 2021 (SB 6, §10(a), 87th Leg., Second Called Session, 2021. See general effective note following Art. 17.02.

SB 6, §10(b) provides: "Article 17.15(a), Code of Criminal Procedure, as amended by this Act, and Article 17.15(c), as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Article 17.15(a), Code of Criminal Procedure, as amended by this Act, and Article 17.15(c), as added by this Act, take effect on the 91st day after the last day of the legislative session."

ART. 17.151. RELEASE BECAUSE OF DELAY

Sec. 1. A defendant who is detained in jail pending trial of an accusation against him must be released either on personal bond or by reducing the amount of bail required, if the state is not ready for trial of the criminal action for which he is being detained within:

- (1) 90 days from the commencement of his detention if he is accused of a felony;
- (2) 30 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days;
- (3) 15 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; or
- (4) five days from the commencement of his detention if he is accused of a misdemeanor punishable by a fine only.

Sec. 2. The provisions of this article do not apply to a defendant who is:

- (1) serving a sentence of imprisonment for another offense while the defendant is serving that sentence;
- (2) being detained pending trial of another accusation against the defendant as to which the applicable period has not yet elapsed;
- (3) incompetent to stand trial, during the period of the defendant's incompetence; or
- (4) being detained for a violation of the conditions of a previous release related to the safety of a victim of the alleged offense or to the safety of the community under this article.

ART. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE

(a) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, related to a violation of a condition of bond set in a family violence case and whose bail in the case under Section 25.07, Penal Code, or in the family violence case is revoked or forfeited for a violation of a condition of bond may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person violated a condition of bond related to:

- (1) the safety of the victim of the offense under Section 25.07, Penal Code, or the family violence case, as applicable; or
- (2) the safety of the community.

(c) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, other than an offense related to a violation of a condition of bond set in a family violence case, may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person committed the offense.

(d) A person who commits an offense under Section 25.07(a)(3), Penal Code, may be held without bail under Subsection (b) or (c), as applicable, only if following a hearing the judge or magistrate determines by a preponderance of the evidence that the person went to or near the place described in the order or condition of bond with the intent to commit or threaten to commit:

- (1) family violence; or
- (2) an act in furtherance of an offense under Section 42.072, Penal Code.

(e) In determining whether to deny release on bail under this article, the judge or magistrate may consider:

- (1) the order or condition of bond;
- (2) the nature and circumstances of the alleged offense;
- (3) the relationship between the accused and the victim, including the history of that relationship;
- (4) any criminal history of the accused; and
- (5) any other facts or circumstances relevant to a determina-

tion of whether the accused poses an imminent threat of future family violence.

(f) A person arrested for committing an offense under Section 25.07, Penal Code, shall without unnecessary delay and after reasonable notice is given to the attorney representing the state, but not later than 48 hours after the person is arrested, be taken before a magistrate in accordance with Article 15.17. At that time, the magistrate shall conduct the hearing and make the determination required by this article.

ART. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM

(a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct);
- (3) Section 43.25 (Sexual Performance by a Child);
- (4) Section 20A.02 (Trafficking of Persons), if the defendant is alleged to have:

(A) trafficked the child with the intent or knowledge that the child would engage in sexual conduct, as defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, as defined by Section 43.25, Penal Code; or

- (5) Section 43.05(a)(2) (Compelling Prostitution).

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

ART. 17.16. DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION

(a) A surety may before forfeiture relieve the surety of the surety's undertaking by:

- (1) surrendering the accused into the custody of the sheriff of the county where the prosecution is pending; or
- (2) delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in:
 - (A) federal custody, subject to Subsection (a-1);
 - (B) the custody of any state; or
 - (C) any county of this state.

(a-1) For purposes of Subsection (a)(2), the surety may not be relieved of the surety's undertaking if the accused is in federal custody to determine whether the accused is lawfully present in the United States.

(b) On receipt of an affidavit described by Subsection (a)(2), the sheriff of the county in which the prosecution is pending shall

verify whether the accused is incarcerated as stated in the affidavit. If the sheriff verifies the statement in the affidavit, the sheriff shall notify the magistrate before which the prosecution is pending of the verification.

(c) On a verification described by this article, the sheriff shall place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated. On receipt of notice of a verification described by this article, the magistrate before which the prosecution is pending shall direct the clerk of the court to issue a *capias* for the arrest of the accused, except as provided by Subsection (d).

(d) A *capias* for the arrest of the accused is not required if:

- (1) a warrant has been issued for the accused's arrest and remains outstanding; or
- (2) the issuance of a *capias* would otherwise be unnecessary for the purpose of taking the accused into custody.

(e) For the purposes of Subsection (a)(2) of this article, the bond is discharged and the surety is absolved of liability on the bond on the verification of the incarceration of the accused.

(f) An affidavit described by Subsection (a)(2) and the documentation of any verification obtained under Subsection (b) must be:

- (1) filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court; and
- (2) delivered to the office of the prosecuting attorney.

(g) A surety is liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

ART. 17.17. WHEN SURRENDER IS MADE DURING TERM

If a surrender of the accused be made during a term of the court to which he has bound himself to appear, the sheriff shall take him before the court; and if he is willing to give other bail, the court shall forthwith require him to do so. If he fails or refuses to give bail, the court shall make an order that he be committed to jail until the bail is given, and this shall be a sufficient commitment without any written order to the sheriff.

ART. 17.18. SURRENDER IN VACATION

When the surrender is made at any other time than during the session of the court, the sheriff may take the necessary bail bond, but if the defendant fails or refuses to give other bail, the sheriff shall take him before the nearest magistrate; and such magistrate shall issue a warrant of commitment, reciting the fact that the accused has been once admitted to bail, has been surrendered, and now fails or refuses to give other bail.

ART. 17.19. SURETY MAY OBTAIN A WARRANT

(a) Any surety, desiring to surrender his principal and after notifying the principal's attorney, if the principal is represented by an attorney, in a manner provided by Rule 21a, Texas Rules of Civil Procedure, of the surety's intention to surrender the principal, may file an affidavit of such intention before the court or magistrate before which the prosecution is pending. The affidavit must state:

- (1) the court and cause number of the case;
- (2) the name of the defendant;
- (3) the offense with which the defendant is charged;
- (4) the date of the bond;
- (5) the cause for the surrender; and
- (6) that notice of the surety's intention to surrender the principal has been given as required by this subsection.

(b) In a prosecution pending before a court, if the court finds that there is cause for the surety to surrender the surety's principal, the

court shall issue a capias for the principal. In a prosecution pending before a magistrate, if the magistrate finds that there is cause for the surety to surrender the surety's principal, the magistrate shall issue a warrant of arrest for the principal. It is an affirmative defense to any liability on the bond that:

- (1) the court or magistrate refused to issue a capias or warrant of arrest for the principal; and
 - (2) after the refusal to issue the capias or warrant of arrest, the principal failed to appear.
- (c) If the court or magistrate before whom the prosecution is pending is not available, the surety may deliver the affidavit to any other magistrate in the county and that magistrate, on a finding of cause for the surety to surrender the surety's principal, shall issue a warrant of arrest for the principal.
- (d) An arrest warrant or capias issued under this article shall be issued to the sheriff of the county in which the case is pending, and a copy of the warrant or capias shall be issued to the surety or his agent.
- (e) An arrest warrant or capias issued under this article may be executed by a peace officer, a security officer, or a private investigator licensed in this state.

ART. 17.20. BAIL IN MISDEMEANOR

- (a) In cases of misdemeanor, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, may, whether during the term of the court or in vacation, where the officer has a defendant in custody, take the defendant's [of the defendant a] bail [bond].
- (b) Before taking bail under this article, the sheriff, peace officer, or jailer shall obtain the defendant's criminal history record information through the statewide telecommunications system maintained by the Department of Public Safety and through the public safety report system developed under Article 17.021.
- (c) Notwithstanding Subsection (b), a sheriff, peace officer, or jailer may make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).
- (d) If the defendant is charged with or has previously been convicted of an offense involving violence as defined by Article 17.03, the sheriff, officer, or jailer may not set the amount of the defendant's bail but may take the defendant's bail in the amount set by the court.

Amended effective Jan. 1, 2022 (SB 6, §11, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.21. BAIL IN FELONY

In cases of felony, when the accused is in custody of the sheriff or other officer, and the court before which the prosecution is pending is in session in the county where the accused is in custody, the court shall fix the amount of bail, if it is aailable case and determine if the accused is eligible for a personal bond; and the sheriff or other peace officer, unless it be the police of a city, or a jailer licensed under Chapter 1701, Occupations Code, is authorized to take a bail bond of the accused in the amount as fixed by the court, to be approved by such officer taking the same, and will thereupon discharge the accused from custody. The defendant and the defendant's sureties are not required to appear in court.

ART. 17.22. MAY TAKE BAIL IN FELONY

- (a) In a felony case, if the court before which the case [same] is pending is not in session in the county where the defendant is in custody, the sheriff or other peace officer, or a jailer licensed

under Chapter 1701, Occupations Code, who has the defendant in custody may take the defendant's bail [bond] in the [such] amount set [as may have been fixed] by the court or magistrate, or if no amount has been set [fixed], then in any [such] amount that the [as such] officer considers [may consider] reasonable and that is in compliance with Article 17.15.

(b) Before taking bail under this article, the sheriff, peace officer, or jailer shall obtain the defendant's criminal history record information through the statewide telecommunications system maintained by the Department of Public Safety and through the public safety report system developed under Article 17.021.

(c) If the defendant is charged with or has previously been convicted of an offense involving violence as defined by Article 17.03, the sheriff, officer, or jailer may not set the amount of the defendant's bail but may take the defendant's bail in the amount set by the court.

Amended effective Jan. 1, 2022 (SB 6, §12, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.23. SURETIES SEVERALLY BOUND

In all bail bonds taken under any provision of this Code, the sureties shall be severally bound. Where a surrender of the principal is made by one or more of them, all the sureties shall be considered discharged.

ART. 17.24. GENERAL RULES APPLICABLE

All general rules in the Chapter are applicable to bail defendant before an examining court.

ART. 17.25. PROCEEDINGS WHEN BAIL IS GRANTED

After a full examination of the testimony, the magistrate shall, if the case be one where bail may properly be granted and ought to be required, proceed to make an order that the accused execute a bail bond with sufficient security, conditioned for his appearance before the proper court.

ART. 17.26. TIME GIVEN TO PROCURE BAIL

Reasonable time shall be given the accused to procure security.

ART. 17.27. WHEN BAIL IS NOT GIVEN

If, after the allowance of a reasonable time, the security be not given, the magistrate shall make an order committing the accused to jail to be kept safely until legally discharged; and he shall issue a commitment accordingly.

ART. 17.28. WHEN READY TO GIVE BAIL

If the party be ready to give bail, the magistrate shall cause to be prepared a bond, which shall be signed by the accused and his surety or sureties, if any.

ART. 17.29. ACCUSED LIBERATED

- (a) When the accused has given the required bond, either to the magistrate or the officer having him in custody, he shall at once be set at liberty.

(b) Before releasing on bail a person arrested for an offense under Section 42.072, Penal Code, or a person arrested or held without warrant in the prevention of family violence, the law enforcement agency holding the person shall make a reasonable attempt to give personal notice of the imminent release to the victim of the alleged offense or to another person designated by the victim to receive the notice. An attempt by an agency to give notice to the victim or the person designated by the victim at the victim's or person's last known telephone number or address, as

shown on the records of the agency, constitutes a reasonable attempt to give notice under this subsection. If possible, the arresting officer shall collect the address and telephone number of the victim at the time the arrest is made and shall communicate that information to the agency holding the person.

(c) A law enforcement agency or an employee of a law enforcement agency is not liable for damages arising from complying or failing to comply with Subsection (b) of this article.

(d) In this article, “family violence” has the meaning assigned by Section 71.004, Family Code.

ART. 17.291. FURTHER DETENTION OF CERTAIN PERSONS

(a) In this article:

(1) “family violence” has the meaning assigned to that phrase by Section 71.004, Family Code; and

(2) “magistrate” has the meaning assigned to it by Article 2.09 of this code.

(b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that:

(1) the violence would continue if the person is released; and
(2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:

(A) on more than one occasion for an offense involving family violence; or

(B) for any other offense, if a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.

ART. 17.292. MAGISTRATE’S ORDER FOR EMERGENCY PROTECTION

(a) At a defendant’s appearance before a magistrate after arrest for an offense involving family violence or an offense under Section 20A.02, 20A.03, 22.011, 22.012, 22.021, or 42.072, Penal Code, the magistrate may issue an order for emergency protection on the magistrate’s own motion or on the request of:

(1) the victim of the offense;

(2) the guardian of the victim;

(3) a peace officer; or

(4) the attorney representing the state.

(b) At a defendant’s appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:

(1) serious bodily injury to the victim; or

(2) the use or exhibition of a deadly weapon during the commission of an assault.

(c) The magistrate in the order for emergency protection may prohibit the arrested party from:

(1) committing:

(A) family violence or an assault on the person protected under the order; or

(B) an act in furtherance of an offense under Section 20A.02 or 42.072, Penal Code;

(2) communicating:

(A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner;

(B) a threat through any person to a member of the family or household or to the person protected under the order; or
(C) if the magistrate finds good cause, in any manner with a person protected under the order or a member of the family or household of a person protected under the order, except through the party’s attorney or a person appointed by the court;

(3) going to or near:

(A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or

(B) the residence, child care facility, or school where a child protected under the order resides or attends; or

(4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant’s participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

(d) The victim of the offense need not be present when the order for emergency protection is issued.

(e) In the order for emergency protection the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted.

(f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.

(f-1) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 85, Subtitle B, Title 4, Family Code, or under Title 1 or Title 5, Family Code, the condition imposed by the order issued under the Family Code prevails.

(f-2) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 83, Subtitle B, Title 4, Family Code, the condition imposed by the order issued under this article prevails unless the court issuing the order under Chapter 83, Family Code:

(1) is informed of the existence of the order issued under this article; and

(2) makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.

(g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

“A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY

BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE, IN ADDITION TO VIOLATION OF THIS ORDER. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

“NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.”

(h) As soon as possible but not later than the next business day after the date the magistrate issues an order for emergency protection under this article, the magistrate shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality. If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment. The clerk of the court shall send a copy of the order to the victim at the victim's last known address as soon as possible but not later than the next business day after the date the order is issued.

(h-1) A magistrate or clerk of the court may delay sending a copy of the order under Subsection (h) only if the magistrate or clerk lacks information necessary to ensure service and enforcement.

(i) If an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, the magistrate shall send a copy of the order to the child care facility or school.

(i-1) The copy of the order and any related information may be sent under Subsection (h) or (i) electronically or in another manner that can be accessed by the recipient.

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order by the magistrate or the magistrate's designee in person or electronically. The magistrate shall make a separate record of the service in written or electronic format. An order for emergency protection issued under Subsection (a) or (b)(1) of this article remains in effect up to the 61st day but not less than 31 days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the 91st day but not less than 61 days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:

(1) the order as originally issued is unworkable;

(2) the modification will not place the victim of the offense at greater risk than did the original order; and

(3) the modification will not in any way endanger a person protected under the order.

(k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, not later than the third business day after the date of receipt of the copy of the order by the applicable law enforcement agency with jurisdiction over the municipality or county in which the victim resides, the law enforcement agency shall enter the information required under Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety.

(k-1) A law enforcement agency may delay entering the information required under Subsection (k) only if the agency lacks information necessary to ensure service and enforcement.

(l) In the order for emergency protection, the magistrate shall suspend a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code, that is held by the defendant.

(m) In this article:

(1) “Family,” “family violence,” and “household” have the meanings assigned by Chapter 71, Family Code.

(2) “Firearm” has the meaning assigned by Chapter 46, Penal Code.

(3) “Business day” means a day other than a Saturday, Sunday, or state or national holiday.

(n) On motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. On transfer, the criminal court may modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

ART. 17.293. DELIVERY OF ORDER FOR

EMERGENCY PROTECTION TO OTHER PERSONS

The magistrate or the clerk of the magistrate's court issuing an order for emergency protection under Article 17.292 that suspends a license to carry a handgun shall immediately send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

(1) record the suspension of the license in the records of the department;

(2) report the suspension to local law enforcement agencies, as appropriate; and

(3) demand surrender of the suspended license from the license holder.

ART. 17.294. CONFIDENTIALITY OF CERTAIN INFORMATION IN ORDER FOR EMERGENCY PROTECTION

On request by a person protected by an order for emergency protection issued under Article 17.292, or if determined necessary by the magistrate, the court issuing the order may protect the person's mailing address by rendering an order:

(1) requiring the person protected under the order to:

(A) disclose the person's mailing address to the court;

(B) designate another person to receive on behalf of the person any notice or documents filed with the court related to the order; and

(C) disclose the designated person's mailing address to the court;

(2) requiring the court clerk to:

(A) strike the mailing address of the person protected by the

order from the public records of the court, if applicable; and (B) maintain a confidential record of the mailing address for use only by:

- (i) the court; or
 - (ii) a law enforcement agency for purposes of entering the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety; and
- (3) prohibiting the release of the information to the defendant.

ART. 17.30. SHALL CERTIFY PROCEEDINGS

The magistrate, before whom an examination has taken place upon a criminal accusation, shall certify to all the proceedings had before him, as well as where he discharges, holds to bail or commits, and transmit them, sealed up, to the court before which the defendant may be tried, writing his name across the seals of the envelope. The voluntary statement of the defendant, the testimony, bail bonds, and every other proceeding in the case, shall be thus delivered to the clerk of the proper court, without delay.

ART. 17.31. DUTY OF CLERKS WHO RECEIVE SUCH PROCEEDINGS

If the proceedings be delivered to a district clerk, he shall keep them safely and deliver the same to the next grand jury. If the proceedings are delivered to a county clerk, he shall without delay deliver them to the district or county attorney of his county.

ART. 17.32. IN CASE OF NO ARREST

Upon failure from any cause to arrest the accused the magistrate shall file with the proper clerk the complaint, warrant of arrest, and a list of the witnesses.

ART. 17.33. REQUEST SETTING OF BAIL

The accused may at any time after being confined request a magistrate to review the written statements of the witnesses for the State as well as all other evidence available at that time in determining the amount of bail. This setting of the amount of bail does not waive the defendant's right to an examining trial as provided in Article 16.01.

ART. 17.34. WITNESSES TO GIVE BOND

Witnesses for the State or defendant may be required by the magistrate, upon the examination of any criminal accusation before him, to give bail for their appearance to testify before the proper court. A personal bond may be taken of a witness by the court before whom the case is pending.

ART. 17.35. SECURITY OF WITNESS

The amount of security to be required of a witness is to be regulated by his pecuniary condition, character and the nature of the offense with respect to which he is a witness.

ART. 17.36. EFFECT OF WITNESS BOND

The bond given by a witness for his appearance has the same effect as a bond of the accused and may be forfeited and recovered upon in the same manner.

ART. 17.37. WITNESS MAY BE COMMITTED

A witness required to give bail who fails or refuses to do so shall be committed to jail as in other cases of a failure to give bail when required, but shall be released from custody upon giving such bail.

ART. 17.38. RULES APPLICABLE TO ALL CASES OF BAIL

The rules in this Chapter respecting bail are applicable to all such

undertakings when entered into in the course of a criminal action, whether before or after an indictment, in every case where authority is given to any court, judge, magistrate, or other officer, to require bail of a person accused of an offense, or of a witness in a criminal action.

ART. 17.39. RECORDS OF BAIL

A magistrate or other officer who sets the amount of bail or who takes bail shall record in a well-bound book the name of the person whose appearance the bail secures, the amount of bail, the date bail is set, the magistrate or officer who sets bail, the offense or other cause for which the appearance is secured, the magistrate or other officer who takes bail, the date the person is released, and the name of the bondsman, if any.

ART. 17.40. CONDITIONS RELATED TO VICTIM OR COMMUNITY SAFETY

- (a) To secure a defendant's attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community.
- (b) At a hearing limited to determining whether the defendant violated a condition of bond imposed under Subsection (a), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

ART. 17.41. CONDITION WHERE CHILD ALLEGED VICTIM

- (a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 18 [14] years of age:
 - (1) Chapter 20A (Trafficking of Persons), 21 (Sexual Offenses), [or] 22 (Assaultive Offenses), or 43 (Public Indecency); or
 - (2) Section 25.02 (Prohibited Sexual Conduct) [or]
 - [3] Section 43.25 (Sexual Performance by a Child).
- (b) Subject to Subsections (c) and (d), a magistrate shall require as a condition of bond for a defendant charged with an offense described by Subsection (a) that the defendant not:
 - (1) directly communicate with the alleged victim of the offense; or
 - (2) go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim.
- (c) A magistrate who imposes a condition of bond under this article may grant the defendant supervised access to the alleged victim.
- (d) To the extent that a condition imposed under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for a period specified by the magistrate, not to exceed 90 days.

Amendments to (a) effective Sept. 1, 2021 (HB 1005, §2). Section 5 of HB 1005 provides: "Article 17.41(a), Code of Criminal Procedure, as amended by this Act, and Article 17.465, Code of Criminal Procedure, as added by this Act, apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose."

ART. 17.42. PERSONAL BOND OFFICE

Sec. 1. Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2. (a) The commissioners court of a county that establishes the office or the district and county judges of a judicial district that establishes the office may employ a director of the office.

(b) The director may employ the staff authorized by the commissioners court of the county or the commissioners court of each county in the judicial district.

Sec. 3. If a judicial district establishes an office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population.

Sec. 4. (a) Except as otherwise provided by this subsection, if a court releases an accused on personal bond on a recommendation of a personal bond office, the court shall assess a personal bond reimbursement fee of \$20 or three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown. A court that requires a defendant to give a personal bond under Article 45.016 may not assess a personal bond fee under this subsection. (b) Reimbursement fees collected under this article may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Reimbursement fees collected under this article shall be deposited in the county treasury, or if the office serves more than one county, the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

Sec. 5. (a) A personal bond pretrial release office established under this article shall:

- (1) prepare a record containing information about any accused person identified by case number only who, after review by the office, is released by a court on personal bond before sentencing in a pending case;
- (2) update the record on a monthly basis; and
- (3) file a copy of the record with the district or county clerk, as applicable based on court jurisdiction over the categories of offenses addressed in the records, in any county served by the office.

(b) In preparing a record under Subsection (a), the office shall include in the record a statement of:

- (1) the offense with which the person is charged;
- (2) the dates of any court appearances scheduled in the matter that were previously unattended by the person;
- (3) whether a warrant has been issued for the person's arrest for failure to appear in accordance with the terms of the person's release;
- (4) whether the person has failed to comply with conditions of release on personal bond; and
- (5) the presiding judge or magistrate who authorized the personal bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

Sec. 6. (a) Not later than April 1 of each year, a personal bond office established under this article shall submit to the commissioners court or district and county judges that established the office an annual report containing information about the operations of the office during the preceding year.

(b) In preparing an annual report under Subsection (a), the office shall include in the report a statement of:

- (1) the office's operating budget;
- (2) the number of positions maintained for office staff;
- (3) the number of accused persons who, after review by the office, were released by a court on personal bond before sentencing in a pending case; and
- (4) the number of persons described by Subdivision (3):
 - (A) who failed to attend a scheduled court appearance;
 - (B) for whom a warrant was issued for the arrest of those persons for failure to appear in accordance with the terms of their release; or
 - (C) who, while released on personal bond, were arrested for any other offense in the same county in which the persons were released on bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

ART. 17.43. HOME CURFEW AND ELECTRONIC MONITORING AS CONDITION

(a) A magistrate may require as a condition of release on personal bond that the defendant submit to home curfew and electronic monitoring under the supervision of an agency designated by the magistrate.

(b) Cost of monitoring may be assessed as reimbursement fees or ordered paid directly by the defendant as a condition of bond.

ART. 17.44. HOME CONFINEMENT, ELECTRONIC MONITORING, AND DRUG TESTING AS CONDITION

(a) A magistrate may require as a condition of release on bond that the defendant submit to:

- (1) home confinement and electronic monitoring under the supervision of an agency designated by the magistrate; or
- (2) testing on a weekly basis for the presence of a controlled substance in the defendant's body.

(b) In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(c) The magistrate may revoke the bond and order the defendant arrested if the defendant:

- (1) violates a condition of home confinement and electronic monitoring;
- (2) refuses to submit to a test for controlled substances or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or
- (3) fails to pay the reimbursement fees for monitoring or testing for controlled substances, if payment is ordered under Subsection (c) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

(d) The community justice assistance division of the Texas Department of Criminal Justice may provide grants to counties to implement electronic monitoring programs authorized by this article.

(e) The cost of electronic monitoring or testing for controlled substances under this article may be assessed as a reimbursement fee or ordered paid directly by the defendant as a condition of bond.

ART. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK

(a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Section 49.04, 49.05, or 49.06, Penal Code, or an offense under Section 49.045, 49.07, or 49.08 of that code:

- (1) have installed on the motor vehicle owned by the defen-

dant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

(b) The magistrate may not require the installation of the device if the magistrate finds that to require the device would not be in the best interest of justice.

(c) If the defendant is required to have the device installed, the magistrate shall require that the defendant have the device installed on the appropriate motor vehicle, at the defendant's expense, before the 30th day after the date the defendant is released on bond.

(d) The magistrate may designate an appropriate agency to verify the installation of the device and to monitor the device. If the magistrate designates an agency under this subsection, in each month during which the agency verifies the installation of the device or provides a monitoring service the defendant shall pay a reimbursement fee to the designated agency in the amount set by the magistrate. The defendant shall pay the initial reimbursement fee at the time the agency verifies the installation of the device. In each subsequent month during which the defendant is required to pay a reimbursement fee the defendant shall pay the fee on the first occasion in that month that the agency provides a monitoring service. The magistrate shall set the fee in an amount not to exceed \$10 as determined by the county auditor, or by the commissioners court of the county if the county does not have a county auditor, to be sufficient to cover the cost incurred by the designated agency in conducting the verification or providing the monitoring service, as applicable in that county.

ART. 17.45. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION

A magistrate may require as a condition of bond that a defendant charged with an offense under Section 43.02 or 43.021, Penal Code, receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus.

Amended effective Sept. 1, 2021 (HB 1540, §34). See effective note following Art. 42A.453.

ART. 17.46. CONDITIONS FOR A DEFENDANT CHARGED WITH STALKING

(a) A magistrate may require as a condition of release on bond that a defendant charged with an offense under Section 42.072, Penal Code, may not:

- (1) communicate directly or indirectly with the victim; or
- (2) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(b) If the magistrate requires the prohibition contained in Subsection (a) (2) of this article as a condition of release on bond, the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the defendant must maintain from the locations.

ART. 17.465. CONDITIONS FOR DEFENDANT CHARGED WITH CERTAIN TRAFFICKING OR PROSTITUTION RELATED OFFENSES INVOLVING ADULT VICTIMS

(a) This article does not apply with respect to a defendant to whom Article 17.41 applies.

(b) A magistrate shall require as a condition of release on bond

that a defendant charged with an offense under Section 20A.02, 20A.03, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code, committed against a person 18 years of age or older may not:

(1) communicate directly or indirectly with the victim; or

(2) go to or near:

(A) the residence, place of employment, or business of the victim; or

(B) if applicable, a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(c) The magistrate shall specifically describe the prohibited locations under Subsection (b)(2) and the minimum distances, if any, that the defendant must maintain from the locations.

(d) At a hearing limited to determining whether the defendant violated a condition of bond imposed under Subsection (b), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

Enacted effective Sept. 1, 2021 (HB 1005, §3).

ART. 17.47. CONDITIONS REQUIRING SUBMISSION OF SPECIMEN

(a) A magistrate may require as a condition of release on bail or bond of a defendant that the defendant provide to a local law enforcement agency one or more specimens for the purpose of creating a DNA record under Subchapter G, Chapter 411, Government Code.

(b) A magistrate shall require as a condition of release on bail or bond of a defendant described by Section 411.1471(a), Government Code, that the defendant provide to a local law enforcement agency one or more specimens for the purpose of creating a DNA record under Subchapter G, Chapter 411, Government Code.

ART. 17.48. POSTTRIAL ACTIONS

A convicting court on entering a finding favorable to a convicted person under Article 64.04, after a hearing at which the attorney representing the state and the counsel for the defendant are entitled to appear, may release the convicted person on bail under this chapter pending the conclusion of court proceedings or proceedings under Section 11, Article IV, Texas Constitution, and Article 48.01.

ART. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE

(a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

- (1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;
- (2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay a reimbursement fee for the costs associated with operating that system in relation to the defendant; or
- (3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay a reimbursement fee for the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

- (1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;
- (2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;
- (3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;
- (4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;
- (5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;
- (6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and
- (7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay a reimbursement fee under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

(j) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

(k) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(l) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

**ART. 17.50. ENTRY INTO TEXAS CRIME
INFORMATION CENTER OF CERTAIN
INFORMATION IN CASES INVOLVING VIOLENT
OFFENSES; DUTIES OF MAGISTRATES, SHERIFFS,
AND DEPARTMENT OF PUBLIC SAFETY**

(a) In this article:

(1) "Business day" means a day other than a Saturday, Sunday, or state or national holiday.

(2) "Database" means the statewide law enforcement information system maintained by the Department of Public Safety, also known as the Texas Crime Information Center.

(3) "Violent offense" means:

(A) an offense under the following sections of the Penal Code:

(i) Section 19.02 (murder);

(ii) Section 19.03 (capital murder);

(iii) Section 20.03 (kidnapping);

(iv) Section 20.04 (aggravated kidnapping);

(v) Section 21.11 (indecentcy with a child);

(vi) Section 22.011 (sexual assault);

(vii) Section 22.02 (aggravated assault);

(viii) Section 22.021 (aggravated sexual assault);

(ix) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(x) Section 29.03 (aggravated robbery);

(xi) Section 21.02 (continuous sexual abuse of young child or children); or

(xii) Section 20A.03 (continuous trafficking of persons); or

(B) any offense involving family violence, as defined by Section 71.004, Family Code.

(b) As soon as practicable but not later than the next day after the date a magistrate issues an order imposing a condition of bond on a defendant under this chapter for a violent offense, the magistrate shall notify the sheriff of the condition and provide to the sheriff the following information:

(1) the information listed in Section 411.042(b)(6), Government Code, as that information relates to an order described by this subsection;

(2) the name and address of any named person the condition of bond is intended to protect, and if different and applicable, the name and address of the victim of the alleged offense;

(3) the date the order releasing the defendant on bond was issued; and

(4) the court that issued the order releasing the defendant on bond.

(c) As soon as practicable but not later than the next day after the date a magistrate, in a case described by Subsection (b), revokes a bond that contains a condition, modifies the terms of or removes a condition of bond, or disposes of the underlying criminal charges, the magistrate shall notify the sheriff and provide the sheriff with information that is sufficient to enable the sheriff to modify or remove the appropriate record in the database.

(d) As soon as practicable but not later than the next business day after the date the sheriff receives the information:

(1) described by Subsection (b), the sheriff shall:

(A) enter the information into the database; and

(B) make a good faith effort to notify by telephone any named person the condition of bond is intended to protect, and if different and applicable, the victim of the alleged offense that the defendant to whom the order is directed has been released on bond; and

(2) described by Subsection (c), the sheriff shall modify or remove the appropriate record in the database.

(e) The clerk of a court that issues an order described by Subsection (b) shall send a copy of the order to any named person the condition of bond is intended to protect, and if different and applicable, the victim of the alleged offense at the person's last known address not later than the next business day after the date the court issues the order.

(f) The Department of Public Safety shall:

(1) modify the database to enable the database to accept and maintain detailed information on active conditions of bond regarding the requirements and status of a condition of bond imposed by a magistrate for a violent offense, including information described by Subsections (b) and (c); and

(2) develop and adopt a form for use by magistrates and sheriffs to facilitate the data collection and data entry required by this article.

(g) This article does not create liability for any errors or omissions of a sheriff caused by inaccurate information provided under this article to the sheriff by a magistrate.

Enacted effective Jan. 1, 2022 (HB 766, §1). Section 2 of HB 766, effective Sept. 1, 2021, provides: "Not later than December 31, 2021, the Department of Public Safety of the State of Texas shall modify the statewide law enforcement information system maintained by the department, also known as the Texas Crime Information Center, to enable the database to accept and maintain detailed information regarding the requirements and status of an active condition of bond imposed by a magistrate for a violent offense, as re-

quired by Article 17.50(f), Code of Criminal Procedure, as added by this Act."

ART. 17.51. NOTICE OF CONDITIONS

(a) As soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing a condition previously imposed, the clerk of the court shall send a copy of the order to:

(1) the appropriate attorney representing the state; and

(2) the sheriff of the county where the defendant resides.

(b) A clerk of the court may delay sending a copy of the order under Subsection (a) only if the clerk lacks information necessary to ensure service and enforcement.

(c) If an order described by Subsection (a) prohibits a defendant from going to or near a child care facility or school, the clerk of the court shall send a copy of the order to the child care facility or school.

(d) The copy of the order and any related information may be sent electronically or in another manner that can be accessed by the recipient.

(e) The magistrate or the magistrate's designee shall provide written notice to the defendant of:

(1) the conditions of release on bond; and

(2) the penalties for violating a condition of release.

(f) The magistrate shall make a separate record of the notice provided to the defendant under Subsection (e).

(g) The Office of Court Administration of the Texas Judicial System shall promulgate a form for use by a magistrate or a magistrate's designee in providing notice to the defendant under Subsection (e). The form must include the relevant statutory language from the provisions of this chapter under which a condition of release on bond may be imposed on a defendant.

Enacted effective Jan. 1, 2022 (SB 6, §13, 87th Leg., Second Called Session, 2021). See effective notes following Arts. 17.02 & 17.028.

ART. 17.52. REPORTING OF CONDITIONS

A chief of police or sheriff who receives a copy of an order described by Article 17.51(a), or the chief's or sheriff's designee, shall, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove information, as appropriate.

Enacted effective Jan. 1, 2022 (SB 6, §13, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

ART. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND

The Office of Court Administration of the Texas Judicial System shall develop statewide procedures and prescribe forms to be used by a court to facilitate:

(1) the refund of any cash funds paid toward a monetary bond, with an emphasis on refunding those funds to the person in whose name the receipt described by Article 17.02 was issued; and

(2) the application of those cash funds to the defendant's outstanding court costs, fines, and fees.

Enacted effective Jan. 1, 2022 (SB 6, §13, 87th Leg., Second Called Session, 2021). See general effective note following Art. 17.02.

CHAPTER 1. GENERAL PROVISIONS

ART. 1.07. RIGHT TO BAIL

Any person ~~[All prisoners]~~ shall be eligible for bail ~~[bailable]~~ unless denial of bail is expressly permitted by the Texas Constitution or by other law ~~[for capital offenses when the proof is evident]~~. This provision ~~may~~ shall not be ~~[so]~~ construed ~~[as]~~ to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

Amended effective Jan. 1, 2022 (SB 6, §2, 87th Leg., Second Called Session, 2021). See effective note following Art. 17.02.

CHAPTER 15. ARREST UNDER WARRANT

ART. 15.17. DUTIES OF ARRESTING OFFICER AND MAGISTRATE

(a) In each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have him taken before some magistrate of the county where the accused was arrested or, to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in any other county of this state. The arrested person may be taken before the magistrate in person or the image of the arrested person may be presented to the magistrate by means of a videoconference. The magistrate shall inform in clear language the person arrested, either in person or through a videoconference, of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, and of his right to have an examining trial. The magistrate shall also inform the person arrested of the person's right to request the appointment of counsel if the person cannot afford counsel. The magistrate shall inform the person arrested of the procedures for requesting appointment of counsel. If applicable, the magistrate shall inform the person that the person may file the affidavit described by Article 17.028(f). If the person does not speak and understand the English language or is deaf, the magistrate shall inform the person in a manner consistent with Articles 38.30 and 38.31, as appropriate. The magistrate shall ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the person arrested is indigent and requests appointment of counsel and if the magistrate is authorized under Article 26.04 to appoint counsel for indigent defendants in the county, the magistrate shall appoint counsel in accordance with Article 1.051. If the magistrate is not authorized to appoint counsel, the magistrate shall without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel, transmit, or cause to be transmitted to the court or to the courts' designee authorized under Article 26.04 to appoint counsel in the county, the forms requesting the appointment of counsel. The magistrate shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person ar-

rested reasonable time and opportunity to consult counsel and shall, after determining whether the person is currently on bail for a separate criminal offense and whether the bail decision is subject to Article 17.027, admit the person arrested to bail if allowed by law. A record of the communication between the arrested person and the magistrate shall be made. The record shall be preserved until the earlier of the following dates: (1) the date on which the pretrial hearing ends; or (2) the 91st day after the date on which the record is made if the person is charged with a misdemeanor or the 120th day after the date on which the record is made if the person is charged with a felony. For purposes of this subsection, "videoconference" means a two-way electronic communication of image and sound between the arrested person and the magistrate and includes secure Internet videoconferencing.

(a-1) If a magistrate is provided written or electronic notice of credible information that may establish reasonable cause to believe that a person brought before the magistrate has a mental illness or is a person with an intellectual disability, the magistrate shall conduct the proceedings described by Article 16.22 or 17.032, as appropriate.

(b) After an accused charged with a misdemeanor punishable by fine only is taken before a magistrate under Subsection (a) and the magistrate has identified the accused with certainty, the magistrate may release the accused without bond and order the accused to appear at a later date for arraignment in the applicable justice court or municipal court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order. The accused shall receive a copy of the order on release. If an accused fails to appear as required by the order, the judge of the court in which the accused is required to appear shall issue a warrant for the arrest of the accused. If the accused is arrested and brought before the judge, the judge may admit the accused to bail, and in admitting the accused to bail, the judge should set as the amount of bail an amount double that generally set for the offense for which the accused was arrested. This subsection does not apply to an accused who has previously been convicted of a felony or a misdemeanor other than a misdemeanor punishable by fine only.

(c) When a deaf accused is taken before a magistrate under this article or Article 14.06 of this Code, an interpreter appointed by the magistrate qualified and sworn as provided in Article 38.31 of this Code shall interpret the warning required by those articles in a language that the accused can understand, including but not limited to sign language.

(d) If a magistrate determines that a person brought before the magistrate after an arrest authorized by Article 14.051 of this code was arrested unlawfully, the magistrate shall release the person from custody. If the magistrate determines that the arrest was lawful, the person arrested is considered a fugitive from justice for the purposes of Article 51.13 of this code, and the disposition of the person is controlled by that article.

(e) In each case in which a person arrested is taken before a magistrate as required by Subsection (a) or Article 15.18(a), a record shall be made of:

- (1) the magistrate informing the person of the person's right to request appointment of counsel;
 - (2) the magistrate asking the person whether the person wants to request appointment of counsel; and
 - (3) whether the person requested appointment of counsel.
- (f) A record required under Subsection (a) or (e) may consist of

written forms, electronic recordings, or other documentation as authorized by procedures adopted in the county under Article 26.04(a). The counsel for the defendant may obtain a copy of the record on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(g) If a person charged with an offense punishable as a misdemeanor appears before a magistrate in compliance with a citation issued under Article 14.06(b) or (c), the magistrate shall perform the duties imposed by this article in the same manner as if the person had been arrested and brought before the magistrate by a peace officer. After the magistrate performs the duties imposed by this article, the magistrate except for good cause shown may release the person on personal bond. If a person who was issued a citation under Article 14.06(c) fails to appear as required by that citation, the magistrate before which the person is required to appear shall issue a warrant for the arrest of the accused.

Amendment to (a) effective Jan. 1, 2022 (SB 6, §3, 87th Leg., Second Called Session, 2021). See effective note following Art. 17.02.

CHAPTER 42. JUDGMENT AND SENTENCE

ART. 42.01. JUDGMENT

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment shall reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;
8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;
9. In the event of conviction where death or any punishment is assessed that the defendant be sentenced to death, a term of confinement or community supervision, or to pay a fine, as the case may be;
10. In the event of conviction where the imposition of sentence is suspended and the defendant is placed on community supervision, setting forth the punishment assessed, the length of community supervision, and the conditions of community supervision;
11. In the event of acquittal that the defendant be discharged;
12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;
13. The offense or offenses for which the defendant was convicted;
14. The date of the offense or offenses and degree of offense for

which the defendant was convicted;

15. The term of sentence;
 16. The date judgment is entered;
 17. The date sentence is imposed;
 18. The date sentence is to commence and any credit for time served;
 19. The terms of any order entered pursuant to Article 42.08 that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;
 20. The terms of any plea bargain;
 21. Affirmative findings entered pursuant to Article 42A.054(c) or (d);
 22. The terms of any fee payment ordered under Article 42.151;
 23. The defendant's thumbprint taken in accordance with Article 38.33;
 24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152, a statement of the amount of the payment or payments required to be made;
 25. In the event that the court orders restitution to be paid to the victim, a statement of the amount of restitution ordered and:
 - (A) the name and address of a person or agency that will accept and forward restitution payments to the victim; or
 - (B) if the court specifically elects to have payments made directly to the crime victim, the name and permanent address of the victim at the time of judgment;
 26. In the event that a presentence investigation is required by Subchapter F, Chapter 42A, a statement that the presentence investigation was done according to the applicable provision;
 27. In the event of conviction of an offense for which registration as a sex offender is required under Chapter 62, a statement that the registration requirement of that chapter applies to the defendant and a statement of the age of the victim of the offense;
 28. The defendant's state identification number required by Article 66.152(a)(2), if that number has been assigned at the time of the judgment; and
 29. The incident number required by Article 66.152(a)(4), if that number has been assigned at the time of the judgment.
- Sec. 2.** The judge may order the prosecuting attorney, or the attorney or attorneys representing any defendant, or the court clerk under the supervision of an attorney, to prepare the judgment, or the court may prepare the same.
- Sec. 3.** The provisions of this article shall apply to both felony and misdemeanor cases.
- Sec. 4.** The Office of Court Administration of the Texas Judicial System shall promulgate a standardized felony judgment form that conforms to the requirements of Section 1 of this article. A court entering a felony judgment shall use the form promulgated under this section.
- Sec. 5.** In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.013 of this code.
- Sec. 6.** In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.014 of this code.
- Sec. 7.** In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.015.
- Sec. 8.** In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.017.
- Sec. 9.** In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0197.

Sec. 10. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0198.

Sec. 11. In addition to the information described by Section 1, the judgment should reflect whether a victim impact statement was returned to the attorney representing the state pursuant to Article 56A.157(a).

Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0192.

Sec. 13. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0196.

Section 14 as enacted by HB 1899, effective Sept. 1, 2019:

Sec. 14. In addition to the information described by Section 1, the judgment must reflect affirmative findings entered pursuant to Article 42.0175.

Section 14 as enacted by SB 1570, effective June 10, 2019:

Sec. 14. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0193.

Sec. 16. In addition to the information described by Section 1, the judgment should reflect the affirmative finding and instruction entered pursuant to Article 42.0194.

Addition of §16 effective Dec. 2, 2021 (SB 1, §9.01, 87th Leg., Second Called Session, 2021). Section 10.03(a) of SB 1 provides: "Except as otherwise provided by this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

ART. 42.0194. FINDING REGARDING FELONY CONVICTION

In the trial of a felony offense, if the defendant is adjudged guilty of the offense, the court shall:

- (1) make an affirmative finding that the person has been found guilty of a felony and enter the affirmative finding in the judgment of the case; and
- (2) instruct the defendant regarding how the felony conviction will impact the defendant's right to vote in this state.

Enacted effective Dec. 2, 2021 (SB 1, §9.01, 87th Leg., Second Called Session, 2021).

CHAPTER 66. CRIMINAL HISTORY RECORD SYSTEM

Subchapter C. Computerized Criminal History System

ART. 66.102. INFORMATION CONTAINED IN COMPUTERIZED CRIMINAL HISTORY SYSTEM

(a) In this article:

- (1) "Appeal" means the review of a decision of a lower court by a superior court other than by collateral attack.
- (2) "Rejected case" means:
 - (A) a charge that, after the arrest of the offender, the prosecutor declines to include in an information or present to a grand jury; or
 - (B) an information or indictment that, after the arrest of the offender, the prosecutor refuses to prosecute.

(b) Information in the computerized criminal history system relating to an offender must include the offender's:

- (1) name, including other names by which the offender is known;
- (2) date of birth;
- (3) physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos; and
- (4) state identification number.

(c) Information in the computerized criminal history system relating to an arrest must include:

- (1) the offender's name;
- (2) the offender's state identification number;
- (3) the arresting law enforcement agency;
- (4) the arrest charge, by offense code and incident number;
- (5) whether the arrest charge is a misdemeanor or felony;
- (6) the date of the arrest;
- (7) for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court;

(8) the exact disposition of the case by a law enforcement agency following the arrest; and

(9) ~~(8)~~ the date of disposition of the case by the law enforcement agency.

(d) Information in the computerized criminal history system relating to a prosecution must include:

- (1) each charged offense, by offense code and incident number;
- (2) the level of the offense charged or the degree of the offense charged for each offense in Subdivision (1); and
- (3) for a rejected case:
 - (A) the date of rejection;
 - (B) the offense code;

- (C) the incident number; and
- (D) whether the rejection is a result of a successful pretrial diversion program.
- (e) Information in the computerized criminal history system relating to the disposition of a case other than a rejected case must include:
 - (1) the final pleading to each charged offense and the level of the offense;
 - (2) a listing of each charged offense disposed of by the court and:
 - (A) the date of disposition;
 - (B) the offense code for the disposed charge and incident number; and
 - (C) the type of disposition; and
 - (3) for a conviction that is appealed, the final court decision and the final disposition of the offender's case on appeal.
- (f) Information in the computerized criminal history system relating to sentencing must include for each sentence:
 - (1) the sentencing date;
 - (2) the sentence for each offense, by offense code and incident number;
 - (3) if the offender was sentenced to confinement:
 - (A) the agency that receives custody of the offender;
 - (B) the length of the sentence for each offense; and
 - (C) if multiple sentences were ordered, whether the sentences were ordered to be served consecutively or concurrently;
 - (4) if the offender was sentenced to pay a fine, the amount of the fine;
 - (5) if a sentence to pay a fine or to confinement was ordered but was deferred, probated, suspended, or otherwise not imposed:
 - (A) the length of the sentence or the amount of the fine that was deferred, probated, suspended, or otherwise not imposed; and
 - (B) the offender's name, offense code, and incident number;
 - (6) if a sentence other than a fine or confinement was ordered, a description of the sentence ordered; and
 - (7) whether the judgment imposing the sentence reflects an affirmative finding entered under Article 42.013 (Finding of Family Violence).
- (g) The Department of Public Safety shall maintain in the computerized criminal history system any information the department maintains in the central database under Article 62.005.
- (h) In addition to the information described by this article, information in the computerized criminal history system must include the age of the victim of the offense if the offender was arrested for or charged with an offense under the following provisions of the Penal Code:
 - (1) Section 20.04(a)(4) (Aggravated Kidnapping), if the offender committed the offense with the intent to violate or abuse the victim sexually;
 - (2) Section 20A.02 (Trafficking of Persons), if the offender:
 - (A) trafficked a person with the intent or knowledge that the person would engage in sexual conduct, as defined by Section 43.25, Penal Code; or
 - (B) benefited from participating in a venture that involved a trafficked person engaging in sexual conduct, as defined by Section 43.25, Penal Code;
 - (3) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual ~~Children~~);
 - (4) Section 21.11 (Indecency with a Child);
 - (5) Section 22.011 (Sexual Assault) or 22.021 (Aggravated Sexual Assault);

- (6) Section 30.02 (Burglary), if the offense is punishable under Subsection (d) of that section and the offender committed the offense with the intent to commit an offense described by Subdivision (1), (4), or (5);
- (7) Section 43.05(a)(2) (Compelling Prostitution); or
- (8) Section 43.25 (Sexual Performance by a Child).

Amendment to (c) effective Jan. 1, 2022 (SB 6, §14, 87th Leg., Second Called Session, 2021).

Amendment of (h)(3) effective Sept. 1, 2021 (HB 375, §2.14). See effective note following Art. 2.32.