

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S. .B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to rules for fixing the amount of bail, to the release of certain defendants on a bail bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.027 to read as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH OFFENSE COMMITTED WHILE ON BAIL. Notwithstanding any other law, if a defendant is charged with committing an offense while released on bail for another offense, only the court before whom the case for the previous offense is pending may release the defendant on bail. The defendant must be presented to the court within the period prescribed by Article 15.17, either in person or by means of videoconference, in accordance with that article.

SECTION 2. Article 17.03, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (b-2) to read as follows:

(a) Except as provided by Subsection (b), ~~or~~ (b-1), or (b-2), 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

1 release on personal bond a defendant who:

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

4 (A) Section 19.03 (Capital Murder);

5 (B) Section 20.04 (Aggravated Kidnapping);

6 (C) Section 22.021 (Aggravated Sexual Assault);

7 (D) ~~[Section 22.03 (Deadly Assault on Law~~
8 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
9 ~~Pardons and Paroles, or Court Participant)];~~

10 ~~[(E)]~~ Section 22.04 (Injury to a Child, Elderly
11 Individual, or Disabled Individual);

12 (E) ~~[(F)]~~ Section 29.03 (Aggravated Robbery);

13 (F) ~~[(G)]~~ Section 30.02 (Burglary);

14 (G) ~~[(H)]~~ Section 71.02 (Engaging in Organized
15 Criminal Activity);

16 (H) ~~[(I)]~~ Section 21.02 (Continuous Sexual Abuse
17 of Young Child or Children); or

18 (I) ~~[(J)]~~ Section 20A.03 (Continuous Trafficking
19 of Persons);

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

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

1 to testing and the test shows evidence of the presence of a
2 controlled substance in the defendant's body.

3 (b-2) A magistrate may not release on personal bond a
4 defendant who:

5 (1) is charged with committing an offense while
6 released on bail or community supervision for an offense involving
7 violence, as defined by Article 17.15(b); or

8 (2) has previously been convicted of an offense
9 involving violence, as defined by Article 17.15(b).

10 SECTION 3. Chapter 17, Code of Criminal Procedure, is
11 amended by adding Articles 17.0501, 17.0502, and 17.071 to read as
12 follows:

13 Art. 17.0501. TRAINING ON CRIMINAL HISTORY RECORD
14 INFORMATION. The Department of Public Safety shall provide
15 adequate training to each magistrate, judge, sheriff, peace
16 officer, or jailer required to obtain criminal history record
17 information under this chapter, as necessary to enable the person
18 to fulfill those requirements.

19 Art. 17.0502. COMPLETION OF BAIL FORM. (a) Each
20 magistrate, judge, sheriff, peace officer, or jailer shall, at the
21 time the person sets bail for a defendant under this chapter,
22 complete the form promulgated by the Office of Court Administration
23 of the Texas Judicial System under Section 72.036, Government Code.

24 (b) A person completing a form under this article shall
25 deliver the completed form to the Office of Court Administration of
26 the Texas Judicial System as soon as is practicable.

27 Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) In this

1 article, "charitable bail organization" means a person who solicits
2 donations from the public for the purpose of depositing money with a
3 court in the amount of a defendant's bail bond. The term does not
4 include:

5 (1) a person soliciting donations with respect to a
6 defendant who is a member of the person's family, as determined
7 under Section 71.003, Family Code; or

8 (2) a nonprofit corporation organized for the purpose
9 of religious worship.

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

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

17 (d) A charitable bail organization may only pay bail bonds
18 for indigent defendants who:

19 (1) are not charged with an offense involving
20 violence, as defined by Article 17.15(b); and

21 (2) have not previously been convicted of an offense
22 involving violence, as defined by Article 17.15(b).

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

1 month:

2 (1) the name of the defendant;

3 (2) the cause number of the case;

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

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

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

13 (g) A sheriff may suspend a charitable bail organization
14 from paying bail bonds in the sheriff's county for one year if the
15 sheriff determines the organization has paid bonds in violation of
16 this article.

17 (h) Chapter 22 applies to a bail bond paid by a charitable
18 bail organization.

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

21 SECTION 4. Article 17.15, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. (a) The
24 amount of bail to be required in any case is to be regulated by the
25 court, judge, magistrate or officer taking the bail; they are to be
26 governed in the exercise of this discretion by the Constitution and
27 by the following rules:

1 1. The bail shall be sufficiently high to give reasonable
2 assurance that the undertaking will be complied with.

3 2. The power to require bail is not to be so used as to make
4 it an instrument of oppression.

5 3. The nature of the offense and the circumstances under
6 which it was committed are to be considered, including whether the
7 offense is an offense involving violence and whether the violence
8 was directed against a peace officer.

9 4. The ability to make bail is to be regarded, and proof may
10 be taken upon this point.

11 5. The future safety of a victim of the alleged offense and
12 the community shall be considered.

13 6. The criminal history of the defendant, including any
14 other pending criminal charges and any instances in which the
15 defendant failed to appear in court following release on bail, is to
16 be considered.

17 7. The citizenship status of the defendant is to be
18 considered.

19 (b) In this article, "offense involving violence" means an
20 offense under the following sections of the Penal Code:

21 (1) Section 19.02 (murder);

22 (2) Section 19.03 (capital murder);

23 (3) Section 20.03 (kidnapping);

24 (4) Section 20.04 (aggravated kidnapping);

25 (5) Section 20A.03 (continuous trafficking of
26 persons);

27 (6) Section 21.02 (continuous sexual abuse of young

1 child or children);

2 (7) Section 21.11 (indecent with a child);

3 (8) Section 22.01(a)(1) (assault), if the offense:

4 (A) involved family violence as defined by
5 Section 71.004, Family Code; or

6 (B) is punishable as a felony of the second
7 degree under Subsection (b-2) of that section (assault of a peace
8 officer or judge);

9 (9) Section 22.011 (sexual assault);

10 (10) Section 22.02 (aggravated assault);

11 (11) Section 22.021 (aggravated sexual assault);

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

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

18 (14) Section 25.11 (continuous violence against the
19 family);

20 (15) Section 29.03 (aggravated robbery); or

21 (16) Section 38.14 (taking or attempting to take
22 weapon from peace officer, federal special investigator, employee
23 or official of correctional facility, parole officer, community
24 supervision and corrections department officer, or commissioned
25 security officer).

26 SECTION 5. Chapter 17, Code of Criminal Procedure, is
27 amended by adding Articles 17.1501 and 17.1502 to read as follows:

1 Art. 17.1501. CONTINUING EDUCATION. (a) A judge or
2 magistrate with the authority to set bail for defendants shall,
3 within one year after the date the judge or magistrate first assumes
4 office, successfully complete a four-hour course with respect to
5 the judge's or magistrate's duties under Article 15.17 and setting
6 bail in criminal cases.

7 (b) Each following year, a judge or magistrate described by
8 Subsection (a) shall successfully complete a two-hour course with
9 respect to the judge's or magistrate's duties under Article 15.17
10 and setting bail in criminal cases.

11 (c) The courses may be completed through a course in bail
12 bond law that is:

13 (1) approved by the State Bar of Texas; and

14 (2) offered:

15 (A) by a public or accredited private institution
16 of higher education in this state; or

17 (B) through a program approved by a justice court
18 education committee.

19 Art. 17.1502. BAIL SCHEDULE; HEARING. (a) The judges of
20 the courts trying criminal cases in a county may promulgate a
21 standing order setting out a schedule of suggested bail amounts for
22 any offense over which the courts have jurisdiction under Chapter
23 4.

24 (b) A standing order promulgated in accordance with this
25 article must require that the factors under Article 17.15 be
26 considered before a defendant's bail is set.

27 (c) A defendant who is unable to give bail in the amount

1 required by the schedule must be given an opportunity to file with
2 the applicable magistrate a sworn affidavit in substantially the
3 following form:

4 "On this ____ day of _____, 20 _____, I have been advised by the
5 (name of the court) Court of the importance of providing true and
6 complete information about my financial situation in connection
7 with the charge pending against me. I am without means to pay
8 _____ and I hereby request the court to set an appropriate bail.
9 (signature of defendant)."

10 (d) The Office of Court Administration of the Texas Judicial
11 System shall promulgate a form to be completed by a defendant filing
12 an affidavit under Subsection (c) to allow a magistrate to assess
13 information relevant to the defendant's financial situation. The
14 form must collect, at a minimum, the following information:

15 (1) any income received by the defendant and the
16 defendant's spouse in the preceding two years;

17 (2) the defendant's employment history and the
18 employment history of the defendant's spouse, including gross
19 monthly pay, for the preceding two years;

20 (3) any cash holdings available to the defendant or
21 the defendant's spouse and the financial institution in which the
22 cash is held;

23 (4) the defendant's major non-cash assets, including
24 real estate and motor vehicles;

25 (5) money owed to the defendant or to the defendant's
26 spouse;

27 (6) any dependents of the defendant or of the

1 defendant's spouse, and the dependents' ages;

2 (7) an itemized estimate of the defendant's monthly
3 expenses;

4 (8) an estimate of the defendant's tax and legal
5 expenses;

6 (9) any anticipated major changes in the defendant's
7 income or expenses; and

8 (10) any additional relevant information the
9 defendant is able to provide to explain the defendant's inability
10 to pay bail according to the schedule.

11 (e) A defendant who files an affidavit under Subsection (c)
12 is entitled to a hearing before the magistrate on the bail amount.
13 The hearing must be held not later than 48 hours after the affidavit
14 is filed. At the hearing, the magistrate shall require the
15 defendant to sign the form described by Subsection (d) in the
16 presence of the magistrate and under penalty of perjury. After the
17 form is signed, the magistrate shall consider the facts stated in
18 the form and the rules established by Article 17.15 and shall set
19 the defendant's bail. The magistrate shall issue oral or written
20 findings of fact supporting the bail decision.

21 SECTION 6. Article 17.20, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of
24 misdemeanor, the sheriff or other peace officer, or a jailer
25 licensed under Chapter 1701, Occupations Code, may, whether during
26 the term of the court or in vacation, where the officer has a
27 defendant in custody, take of the defendant a bail bond.

1 (b) Before taking a bail bond under this article, the
2 sheriff, peace officer, or jailer shall obtain the defendant's
3 criminal history record information. If the defendant is charged
4 with an offense involving violence or has previously been convicted
5 of an offense involving violence, the sheriff, officer, or jailer
6 may not set the amount of the defendant's bail but may take of the
7 defendant a bail bond in the amount fixed by the court. For
8 purposes of this subsection, "offense involving violence" has the
9 meaning assigned by Article 17.15(b).

10 SECTION 7. Article 17.22, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case,
13 if the court before which the case ~~[same]~~ is pending is not in
14 session in the county where the defendant is in custody, the sheriff
15 or other peace officer, or a jailer licensed under Chapter 1701,
16 Occupations Code, who has the defendant in custody may take the
17 defendant's bail bond in the ~~[such]~~ amount ~~[as may have been]~~ fixed
18 by the court or magistrate, or if no amount has been fixed, then in
19 any ~~[such]~~ amount as the ~~[such]~~ officer considers ~~[may consider]~~
20 reasonable.

21 (b) Before taking a bail bond under this article, the
22 sheriff, peace officer, or jailer shall obtain the defendant's
23 criminal history record information. If the defendant is charged
24 with an offense involving violence or has previously been convicted
25 of an offense involving violence, the sheriff, officer, or jailer
26 may not set the amount of the defendant's bail but may take of the
27 defendant a bail bond in the amount fixed by the court. For

1 purposes of this subsection, "offense involving violence" has the
2 meaning assigned by Article 17.15(b).

3 SECTION 8. Section 27.005, Government Code, is amended to
4 read as follows:

5 Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes
6 of removal under Chapter 87, Local Government Code, "incompetency"
7 in the case of a justice of the peace includes the failure of the
8 justice to successfully complete:

9 (1) within one year after the date the justice is first
10 elected;

11 (A) [7] an 80-hour course in the performance of
12 the justice's duties; and

13 (B) the course described by Article 17.1501(a),
14 Code of Criminal Procedure; and

15 (2) each following year:

16 (A) [7] a 20-hour course in the performance of
17 the justice's duties, including not less than 10 hours of
18 instruction regarding substantive, procedural, and evidentiary law
19 in civil matters; and

20 (B) the course described by Article 17.1501(b),
21 Code of Criminal Procedure.

22 (b) The courses described by Subsections (a)(1)(A) and
23 (a)(2)(A) may be completed in an accredited state-supported school
24 of higher education.

25 SECTION 9. Subchapter C, Chapter 71, Government Code, is
26 amended by adding Section 71.0351 to read as follows:

27 Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a)

1 As a component of the official monthly report submitted to the
2 Office of Court Administration of the Texas Judicial System under
3 Section 71.035, the clerk of each court setting bail in criminal
4 cases shall report:

5 (1) the number of defendants for whom bail was set,
6 including:

7 (A) the number for each category of offense; and

8 (B) the number of personal bonds;

9 (2) the number of defendants who posted bail;

10 (3) the number of defendants released on bail who
11 subsequently failed to appear or violated a condition of release;
12 and

13 (4) the number of defendants who committed an offense
14 while released on bail or community supervision.

15 (b) The Office of Court Administration of the Texas Judicial
16 System shall post the information in a publicly accessible place on
17 the agency's Internet website without disclosing any personal
18 information of any defendant, judge, or magistrate.

19 SECTION 10. Subchapter C, Chapter 72, Government Code, is
20 amended by adding Section 72.036 to read as follows:

21 Sec. 72.036. BAIL FORM. (a) The office shall promulgate a
22 form to be completed each time a magistrate, judge, sheriff, peace
23 officer, or jailer sets a defendant's bail under Chapter 17, Code of
24 Criminal Procedure.

25 (b) The form must:

26 (1) state the requirements for setting bail under
27 Article 17.15, Code of Criminal Procedure;

1 (2) require the person setting bail to certify that
2 the person considered all of the information required under that
3 article; and

4 (3) be signed by the person setting the bail.

5 (c) The office shall publish each form submitted under
6 Article 17.0502, Code of Criminal Procedure, in a database that is
7 publicly accessible on the office's Internet website.

8 SECTION 11. Article 66.102(c), Code of Criminal Procedure,
9 is amended to read as follows:

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

12 (1) the offender's name;

13 (2) the offender's state identification number;

14 (3) the arresting law enforcement agency;

15 (4) the arrest charge, by offense code and incident
16 number;

17 (5) whether the arrest charge is a misdemeanor or
18 felony;

19 (6) the date of the arrest;

20 (7) for an offender released on bail, whether a
21 warrant was issued for any subsequent failure of the offender to
22 appear in court;

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

25 (9) [~~(8)~~] the date of disposition of the case by the
26 law enforcement agency.

27 SECTION 12. A judge or magistrate who is serving on the

1 effective date of this Act must complete the judge's or
2 magistrate's:

3 (1) initial training under Article 17.1501(a), Code of
4 Criminal Procedure, as added by this Act, not later than September
5 1, 2022; and

6 (2) first required course under Article 17.1501(b),
7 Code of Criminal Procedure, as added by this Act, not later than
8 September 1, 2023.

9 SECTION 13. The changes in law made by this Act apply only
10 to a person who is arrested on or after the effective date of this
11 Act. A person arrested before the effective date of this Act is
12 governed by the law in effect on the date the person was arrested,
13 and the former law is continued in effect for that purpose.

14 SECTION 14. This Act takes effect September 1, 2021.