

By: Smith

H.B. No. 2

A BILL TO BE ENTITLED

1 AN ACT
2 relating to rules for setting the amount of bail, to the release of
3 certain defendants on a monetary bond or personal bond, to related
4 duties of certain officers taking bail bonds and of a magistrate in
5 a criminal case, to charitable bail organizations, and to the
6 reporting of information pertaining to bail bonds.

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

8 SECTION 1. This Act may be cited as the Damon Allen Act.

9 SECTION 2. Article 1.07, Code of Criminal Procedure, is
10 amended to read as follows:

11 Art. 1.07. RIGHT TO BAIL. Any person [~~All prisoners~~] shall
12 be eligible for bail [~~bailable~~] unless denial of bail is expressly
13 permitted by the Texas Constitution or by other law [~~for capital~~
14 ~~offenses when the proof is evident~~]. This provision may [~~shall~~] not
15 be [~~so~~] construed [~~as~~] to prevent bail after indictment found upon
16 examination of the evidence, in such manner as may be prescribed by
17 law.

18 SECTION 3. Article 17.02, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a
21 written undertaking entered into by the defendant and the
22 defendant's sureties for the appearance of the principal therein
23 before a court or magistrate to answer a criminal accusation;
24 provided, however, that the defendant on execution of the bail bond

1 may deposit with the custodian of funds of the court in which the
2 prosecution is pending current money of the United States in the
3 amount of the bond in lieu of having sureties signing the same. Any
4 cash funds deposited under this article shall be receipted for by
5 the officer receiving the funds and, on order of the court, be
6 refunded in the amount shown on the face of the receipt less the
7 administrative fee authorized by Section [117.055](#), Local Government
8 Code, if applicable, after the defendant complies with the
9 conditions of the defendant's bond, to:

10 (1) any person in the name of whom a receipt was
11 issued, including the defendant if a receipt was issued to the
12 defendant; or

13 (2) the defendant, if no other person is able to
14 produce a receipt for the funds.

15 SECTION 4. Chapter [17](#), Code of Criminal Procedure, is
16 amended by adding Articles [17.021](#), [17.022](#), [17.023](#), [17.024](#), [17.027](#),
17 and [17.028](#) to read as follows:

18 Art. 17.021. PUBLIC SAFETY REPORT SYSTEM. (a) The Office
19 of Court Administration of the Texas Judicial System shall develop
20 and maintain a public safety report system that is available for use
21 for purposes of Article [17.15](#).

22 (b) The public safety report system must:

23 (1) state the requirements for setting bail under
24 Article [17.15](#);

25 (2) provide identifying information regarding the
26 defendant, the case filed against the defendant, and the offense
27 with which the defendant is charged;

1 (3) provide information on the eligibility of the
2 defendant for a personal bond;

3 (4) provide information regarding the applicability
4 of any required or discretionary bond conditions; and

5 (5) provide, in summary form, the criminal history of
6 the defendant, including information regarding any:

7 (A) previous misdemeanor or felony convictions;

8 (B) pending charges;

9 (C) previous sentences imposing a term of
10 confinement;

11 (D) previous convictions or pending charges for
12 offenses involving violence as defined by Article 17.03; and

13 (E) previous failures of the defendant to appear
14 in court following release on bail.

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

21 (d) The public safety report system may not:

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

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

27 (3) include any information other than the information

1 listed in Subsection (b).

2 Art. 17.022. PUBLIC SAFETY REPORT. (a) A magistrate
3 considering the release on bail of a defendant charged with an
4 offense punishable as a Class B misdemeanor or any higher category
5 of offense shall order that:

6 (1) the personal bond office established under Article
7 17.42 for the county in which the defendant is being detained, or
8 other suitably trained person, use the public safety report system
9 developed under Article 17.021 to prepare a public safety report
10 with respect to the defendant; and

11 (2) the public safety report prepared under
12 Subdivision (1) be provided to the magistrate as soon as
13 practicable but not later than 48 hours after the defendant's
14 arrest.

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

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

22 (d) The magistrate shall consider the public safety report
23 before setting bail.

24 Art. 17.023. AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES.

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

27 (1) punishable as a felony; or

1 (2) a misdemeanor punishable by confinement.

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

4 (1) either:

5 (A) a resident of this state and one of the
6 counties served by the magistrate; or

7 (B) a justice of the peace serving under Section
8 27.054 or 27.055, Government Code; and

9 (2) in compliance with the training requirements of
10 Article 17.024.

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

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

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

22 Art. 17.024. TRAINING ON DUTIES REGARDING BAIL. (a) The
23 Office of Court Administration of the Texas Judicial System shall,
24 in consultation with the court of criminal appeals, develop or
25 approve training courses regarding a magistrate's duties,
26 including duties with respect to setting bail in criminal cases.

27 The courses developed must include:

1 (1) an eight-hour initial training course; and

2 (2) a two-hour continuing education course.

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

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

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

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

15 (3) the magistrate demonstrates competency in a manner
16 acceptable to the office.

17 (c-1) Notwithstanding Subsection (c), a magistrate who is
18 serving on December 1, 2021, is considered to be in compliance with
19 Subsection (c)(1) if the magistrate successfully completes the
20 training course not later than July 1, 2022. This subsection
21 expires February 1, 2023.

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

27 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH

1 OFFENSE COMMITTED WHILE ON BAIL. (a) Notwithstanding any other
2 law, if a defendant is charged with committing an offense while
3 released on bail for another offense:

4 (1) if the subsequent offense was committed in the
5 same county as the previous offense, only the court before whom the
6 case for the previous offense is pending may release the defendant
7 on bail; and

8 (2) if the subsequent offense was committed in a
9 different county than the previous offense, electronic notice of
10 the charge must be promptly given to the court specified by
11 Subdivision (1) for purposes of reevaluating the bail decision,
12 determining whether any bail conditions were violated, or taking
13 any other applicable action.

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

16 Art. 17.028. BAIL DECISION. (a) Without unnecessary delay
17 but not later than 48 hours after a defendant is arrested, a
18 magistrate shall order, after individualized consideration of all
19 circumstances and of the factors required by Article 17.15(a), that
20 the defendant be:

21 (1) granted personal bond with or without conditions;

22 (2) granted monetary bond with or without conditions;

23 or

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

26 (b) In setting bail under this article, the magistrate shall
27 impose the least restrictive conditions, if any, and the personal

1 bond or monetary bond necessary to reasonably ensure the
2 defendant's appearance in court as required and the safety of the
3 community, law enforcement, and the victim of the alleged offense.

4 (c) In each criminal case, unless specifically provided by
5 other law, there is a rebuttable presumption that bail, conditions
6 of release, or both bail and conditions of release are sufficient to
7 reasonably ensure the defendant's appearance in court as required
8 and the safety of the community, law enforcement, and the victim of
9 the alleged offense. For purposes of setting bail or rebutting the
10 presumption, the court may not consider testimonial evidence.

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

13 (1) is inconsistent with this article; or

14 (2) authorizes a magistrate to make a bail decision
15 for a defendant without considering each of the factors in Article
16 17.15(a).

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

21 (f) A defendant who claims to be unable to give bail as
22 described by Subsection (e) may file with the applicable magistrate
23 a sworn affidavit in substantially the following form:

24 "On this ___ day of _____, 2____, I have been advised by the
25 (name of the court) Court of the importance of providing true and
26 complete information about my financial situation in connection
27 with the charge pending against me. I am without means to pay

1 _____ and I hereby request the court to set an appropriate bail.
2 (signature of defendant)."

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

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

12 (2) the defendant's employment history and the
13 employment history of the defendant's spouse, including gross
14 monthly pay, for the preceding two years;

15 (3) any cash holdings available to the defendant or
16 the defendant's spouse and the financial institution in which the
17 cash is held;

18 (4) the defendant's major noncash assets, including
19 real estate and motor vehicles;

20 (5) money owed to the defendant or to the defendant's
21 spouse;

22 (6) any dependents of the defendant or of the
23 defendant's spouse, and the dependents' ages;

24 (7) an itemized estimate of the defendant's monthly
25 expenses;

26 (8) an estimate of the defendant's tax and legal
27 expenses;

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

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

6 (h) A defendant who files an affidavit under Subsection (f)
7 is entitled to a hearing before the magistrate on the bail amount.
8 The hearing must be held not later than 48 hours after the defendant
9 is arrested. At the hearing, the defendant must be given the
10 opportunity to present evidence and respond to evidence presented
11 by the attorney representing the state. After the hearing, the
12 magistrate shall consider the facts presented and the rules
13 established by Article 17.15(a) and shall set the defendant's bail.
14 If the magistrate does not set the defendant's bail in an amount
15 below the amount required by the schedule, the magistrate shall
16 issue written findings of fact supporting the bail decision.

17 (i) The judges of the courts trying criminal cases in a
18 county must report to the Office of Court Administration of the
19 Texas Judicial System each defendant for whom a hearing under
20 Subsection (h) was not held within 48 hours of the defendant's
21 arrest. If a delay occurs that will cause the hearing under
22 Subsection (h) to be held later than 48 hours after the defendant's
23 arrest, the magistrate or an employee of the court or of the county
24 in which the defendant is confined must notify the defendant's
25 counsel of the delay.

26 (j) The magistrate may enter an order or take other action
27 authorized by Article 16.22 with respect to a defendant who does not

1 appear competent to execute an affidavit under Subsection (f).

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

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

10 SECTION 5. Article 17.03, Code of Criminal Procedure, as
11 effective September 1, 2021, is amended by amending Subsection (b)
12 and adding Subsections (b-2) and (b-3) to read as follows:

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

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

17 (A) [~~Section 19.03 (Capital Murder)~~],
18 [~~(B) Section 20.04 (Aggravated Kidnapping)~~],
19 [~~(C) Section 22.021 (Aggravated Sexual Assault)~~],
20 [~~(D) Section 22.03 (Deadly Assault on Law~~
21 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
22 ~~Pardons and Paroles, or Court Participant)~~],

23 [~~(E) Section 22.04 (Injury to a Child, Elderly~~
24 ~~Individual, or Disabled Individual)~~],

25 [~~(F) Section 29.03 (Aggravated Robbery)~~],

26 [~~(G)~~] Section 30.02 (Burglary); or

27 (B) [(H)] Section 71.02 (Engaging in Organized

1 Criminal Activity);

2 [~~(I) Section 21.02 (Continuous Sexual Abuse of~~
3 ~~Young Child or Disabled Individual), or~~

4 [~~(J) Section 20A.03 (Continuous Trafficking of~~
5 ~~Persons),]~~

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

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

16 (b-2) Notwithstanding any other law, a defendant may not be
17 released on personal bond if the defendant:

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

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

21 (A) any offense punishable as a felony; or

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

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

25 (ii) Section 22.05 (deadly conduct);

26 (iii) Section 22.07 (terroristic threat);

27 or

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

3 (b-3) In this article:

4 (1) "Controlled substance" has the meaning assigned by
5 Section 481.002, Health and Safety Code.

6 (2) "Offense involving violence" means an offense
7 under the following provisions of the Penal Code:

8 (A) Section 19.02 (murder);

9 (B) Section 19.03 (capital murder);

10 (C) Section 20.03 (kidnapping);

11 (D) Section 20.04 (aggravated kidnapping);

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

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

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

17 (H) Section 21.11 (indecent with a child);

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

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

22 (ii) involved family violence as defined by
23 Section 71.004, Family Code;

24 (J) Section 22.011 (sexual assault);

25 (K) Section 22.02 (aggravated assault);

26 (L) Section 22.021 (aggravated sexual assault);

27 (M) Section 22.04 (injury to a child, elderly

1 individual, or disabled individual);

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

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

8 (P) Section 29.03 (aggravated robbery);

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

14 (R) Section 43.04 (aggravated promotion of
15 prostitution);

16 (S) Section 43.05 (compelling prostitution); or

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

19 SECTION 6. Chapter 17, Code of Criminal Procedure, is
20 amended by adding Articles 17.0501 and 17.071 to read as follows:

21 Art. 17.0501. REQUIRED TRAINING. The Department of Public
22 Safety shall develop training courses that relate to the use of the
23 statewide telecommunications system maintained by the department
24 and that are directed to each magistrate, judge, sheriff, peace
25 officer, or jailer required to obtain criminal history record
26 information under this chapter, as necessary to enable the person
27 to fulfill those requirements.

1 Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) In this
2 article, "charitable bail organization" means a person who solicits
3 donations from the public for the purpose of depositing money with a
4 court in the amount of a defendant's bail bond. The term does not
5 include:

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

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

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

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

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

20 (1) are not charged with an offense involving violence
21 as defined by Article 17.03; and

22 (2) have not previously been convicted of an offense
23 involving violence as defined by Article 17.03.

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

1 for whom the organization paid a bail bond in the preceding calendar
2 month:

3 (1) the name of the defendant;

4 (2) the cause number of the case;

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

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

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

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

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

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

22 SECTION 7. Article 17.15, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 17.15. RULES FOR SETTING [~~FIXING~~] AMOUNT OF BAIL. (a)
25 The amount of bail and any conditions of bail to be required in any
26 case are [~~is~~] to be regulated by the court, judge, magistrate, or
27 officer taking the bail in accordance with Articles 17.20, 17.21,

1 and 17.22 and [~~they~~] are [~~to be~~] governed [~~in the exercise of this~~
2 ~~discretion~~] by the Constitution and [~~by~~] the following rules:

3 1. Bail and any conditions of bail [~~The bail~~] shall be
4 sufficient [~~sufficiently high~~] to give reasonable assurance that
5 the undertaking will be complied with.

6 2. The power to require bail is not to be [~~so~~] used
7 [~~as~~] to make bail [~~it~~] an instrument of oppression.

8 3. The nature of the offense and the circumstances
9 under which the offense [~~it~~] was committed are to be considered,
10 including whether the offense:

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

13 (B) involves violence directed against a peace
14 officer.

15 4. The ability to make bail shall [~~is to~~] be considered
16 [~~regarded~~], and proof may be taken on [~~upon~~] this point.

17 5. The future safety of a victim of the alleged
18 offense, law enforcement, and the community shall be considered.

19 6. The criminal history record information for the
20 defendant, including information obtained through the statewide
21 telecommunications system maintained by the Department of Public
22 Safety and through the public safety report system developed under
23 Article 17.021, shall be considered, including any acts of family
24 violence, other pending criminal charges, and any instances in
25 which the defendant failed to appear in court following release on
26 bail.

27 7. The citizenship status of the defendant shall be

1 considered.

2 (b) For purposes of determining whether clear and
3 convincing evidence exists to deny a person bail under Section 11d,
4 Article I, Texas Constitution, a magistrate shall consider all
5 information relevant to the factors listed in Subsection (a).

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

8 SECTION 8. Article 17.20, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of
11 misdemeanor, the sheriff or other peace officer, or a jailer
12 licensed under Chapter 1701, Occupations Code, may, whether during
13 the term of the court or in vacation, where the officer has a
14 defendant in custody, take the defendant's [~~of the defendant a~~]
15 bail [~~bond~~].

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

22 (c) If the defendant is charged with or has previously been
23 convicted of an offense involving violence as defined by Article
24 17.03, the sheriff, officer, or jailer may not set the amount of the
25 defendant's bail but may take the defendant's bail in the amount set
26 by the court.

27 SECTION 9. Article 17.22, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case,
3 if the court before which the case [~~same~~] is pending is not in
4 session in the county where the defendant is in custody, the sheriff
5 or other peace officer, or a jailer licensed under Chapter 1701,
6 Occupations Code, who has the defendant in custody may take the
7 defendant's bail [~~bond~~] in the [~~such~~] amount set [~~as may have been~~
8 ~~fixed~~] by the court or magistrate, or if no amount has been set
9 [~~fixed~~], then in any [~~such~~] amount that the [~~as such~~] officer
10 considers [~~may consider~~] reasonable and that is in compliance with
11 Article 17.15.

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

18 (c) If the defendant is charged with or has previously been
19 convicted of an offense involving violence as defined by Article
20 17.03, the sheriff, officer, or jailer may not set the amount of the
21 defendant's bail but may take the defendant's bail in the amount set
22 by the court.

23 SECTION 10. Chapter 17, Code of Criminal Procedure, is
24 amended by adding Articles 17.51, 17.52, and 17.53 to read as
25 follows:

26 Art. 17.51. NOTICE OF CONDITIONS. (a) As soon as
27 practicable but not later than the next business day after the date

1 a magistrate issues an order imposing a condition of release on bond
2 for a defendant or modifying or removing a condition previously
3 imposed, the clerk of the court shall send a copy of the order to:

4 (1) the appropriate attorney representing the state;

5 and

6 (2) either:

7 (A) the chief of police in the municipality where
8 the defendant resides, if the defendant resides in a municipality;

9 or

10 (B) the sheriff of the county where the defendant
11 resides, if the defendant does not reside in a municipality.

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

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

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

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

24 (1) the conditions of release on bond; and

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

27 (f) The magistrate shall make a separate record of the

1 notice provided to the defendant under Subsection (e).

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

8 Art. 17.52. REPORTING OF CONDITIONS. A chief of police or
9 sheriff who receives a copy of an order described by Article
10 17.51(a), or the chief's or sheriff's designee, shall, as soon as
11 practicable but not later than the 10th day after the date the copy
12 is received, enter information relating to the condition of release
13 into the appropriate database of the statewide law enforcement
14 information system maintained by the Department of Public Safety or
15 modify or remove information, as appropriate.

16 Art. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND.
17 The Office of Court Administration of the Texas Judicial System
18 shall develop statewide procedures and prescribe forms to be used
19 by a court to facilitate:

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

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

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

27 (c) Information in the computerized criminal history system

1 relating to an arrest must include:

2 (1) the offender's name;

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

4 (3) the arresting law enforcement agency;

5 (4) the arrest charge, by offense code and incident
6 number;

7 (5) whether the arrest charge is a misdemeanor or
8 felony;

9 (6) the date of the arrest;

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

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

15 (9) [~~8~~] the date of disposition of the case by the
16 law enforcement agency.

17 SECTION 12. Section 27.005, Government Code, is amended to
18 read as follows:

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

23 (1) within one year after the date the justice is first
24 elected:

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

27 (B) the course described by Article

1 17.024(a)(1), Code of Criminal Procedure; and

2 (C) the course described by Article 17.0501, Code
3 of Criminal Procedure;

4 (2) each following year, a 20-hour course in the
5 performance of the justice's duties, including not less than 10
6 hours of instruction regarding substantive, procedural, and
7 evidentiary law in civil matters; and

8 (3) each following state fiscal biennium, the course
9 described by Article 17.024(a)(2), Code of Criminal Procedure.

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

13 SECTION 13. Subchapter C, Chapter 71, Government Code, is
14 amended by adding Section 71.0351 to read as follows:

15 Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a)
16 As a component of the official monthly report submitted to the
17 Office of Court Administration of the Texas Judicial System under
18 Section 71.035, the clerk of each court setting bail in criminal
19 cases shall report:

20 (1) the number of defendants for whom bail was set,
21 including:

22 (A) the number for each category of offense;

23 (B) the number of personal bonds; and

24 (C) the number of monetary bonds;

25 (2) the number of defendants released on bail who
26 subsequently failed to appear;

27 (3) the number of defendants released on bail who

1 subsequently violated a condition of release; and

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

4 (b) The office shall post the information in a publicly
5 accessible place on the agency's Internet website without
6 disclosing any personal information of any defendant, judge, or
7 magistrate.

8 (c) Not later than December 1 of each year, the office shall
9 submit a report containing the data collected under this section
10 during the previous state fiscal year to the governor, the
11 lieutenant governor, the speaker of the house of representatives,
12 and the standing committees of each house of the legislature with
13 jurisdiction over the judiciary.

14 SECTION 14. Subchapter C, Chapter 72, Government Code, is
15 amended by adding Section 72.038 to read as follows:

16 Sec. 72.038. BAIL FORM. (a) The office shall promulgate a
17 form to be completed by a magistrate, judge, sheriff, peace
18 officer, or jailer who sets a defendant's bail under Chapter 17,
19 Code of Criminal Procedure.

20 (b) The form must:

21 (1) state the cause number of the case, if available,
22 the defendant's name and date of birth, and the offense for which
23 the defendant was arrested;

24 (2) state the name and the office or position of the
25 person setting bail;

26 (3) state the requirements for setting bail under
27 Article 17.15, Code of Criminal Procedure, and list each factor

1 provided by Article 17.15(a) of that code;

2 (4) require the person setting bail to:

3 (A) identify the bail type, the amount of the
4 bail, and any conditions of bail;

5 (B) certify that the person considered each
6 factor provided by Article 17.15(a), Code of Criminal Procedure;
7 and

8 (C) certify that the person considered the
9 information provided by the public safety report system developed
10 under Article 17.021, Code of Criminal Procedure; and

11 (5) be signed by the person setting the bail.

12 (c) The person setting bail, an employee of the court that
13 set the defendant's bail, or an employee of the county in which the
14 defendant's bail was set must promptly and electronically provide
15 the form required under this section to the office on completion of
16 the form.

17 (d) The office shall publish each form submitted under this
18 section in a database that is publicly accessible on the office's
19 Internet website.

20 SECTION 15. Section 117.055, Local Government Code, is
21 amended by amending Subsection (a) and adding Subsections (a-1) and
22 (a-2) to read as follows:

23 (a) Except as provided by Subsection (a-1), to [~~T~~o]
24 compensate the county for the accounting and administrative
25 expenses incurred in handling the registry funds that have not
26 earned interest, including funds in a special or separate account,
27 the clerk shall, at the time of withdrawal, deduct from the amount

1 of the withdrawal a fee in an amount equal to five percent of the
2 withdrawal but that may not exceed \$50. Withdrawal of funds
3 generated from a case arising under the Family Code is exempt from
4 the fee deduction provided by this section.

5 (a-1) A clerk may not deduct a fee under Subsection (a) from
6 a withdrawal of funds generated by the collection of a cash bond or
7 cash bail bond if in the case for which the bond was taken:

8 (1) the defendant was found not guilty after a trial or
9 appeal; or

10 (2) the complaint, information, or indictment was
11 dismissed without a plea of guilty or nolo contendere being
12 entered.

13 (a-2) On the request of a person to whom withdrawn funds
14 generated by the collection of a cash bond or cash bail bond were
15 disbursed, the clerk shall refund to the person the amount of the
16 fee deducted under Subsection (a) if:

17 (1) subsequent to the deduction, a court makes or
18 enters an order or ruling in the case for which the bond was taken;
19 and

20 (2) had the court made or entered the order or ruling
21 before the withdrawal of funds occurred, the deduction under
22 Subsection (a) would have been prohibited under Subsection (a-1).

23 SECTION 16. Article 17.03(f), Code of Criminal Procedure,
24 is repealed.

25 SECTION 17. As soon as practicable but not later than
26 December 1, 2021, the Office of Court Administration of the Texas
27 Judicial System shall create the public safety report system

1 developed under Article 17.021, Code of Criminal Procedure, as
2 added by this Act, and any related forms and materials and shall
3 provide to the appropriate officials in each county access to the
4 system, forms, and materials at no cost. If those items are made
5 available before December 1, 2021, the office shall notify each
6 court clerk, judge or other magistrate, and office of an attorney
7 representing the state.

8 SECTION 18. (a) As soon as practicable but not later than
9 December 1, 2021, the Office of Court Administration of the Texas
10 Judicial System shall:

11 (1) promulgate the forms required by Articles
12 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by
13 this Act, and by Section 72.038, Government Code, as added by this
14 Act; and

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

20 (b) If the items described by Subsection (a) of this section
21 are made available before December 1, 2021, the office shall notify
22 each court clerk, judge or other magistrate, and office of an
23 attorney representing the state.

24 SECTION 19. Section [117.055](#), Local Government Code, as
25 amended by this Act, applies only to a withdrawal of funds from a
26 court registry under Section [117.055](#), Local Government Code, made
27 on or after the effective date provided by Section 21(c) of this

1 Act. A withdrawal of funds from a court registry made before the
2 effective date provided by Section 21(c) of this Act is governed by
3 the law in effect on the date the withdrawal was made, and the
4 former law is continued in effect for that purpose.

5 SECTION 20. The changes in law made by this Act apply only
6 to a person who is arrested on or after the effective date of this
7 Act. A person arrested before the effective date of this Act is
8 governed by the law in effect on the date the person was arrested,
9 and the former law is continued in effect for that purpose.

10 SECTION 21. (a) Except as provided by Subsections (b) and
11 (c) of this section, this Act takes effect December 1, 2021.

12 (b) Article 17.15(b), Code of Criminal Procedure, as added
13 by this Act, takes effect December 1, 2021, but only if the
14 constitutional amendment proposed by the 87th Legislature, 1st
15 Called Session, 2021, requiring a judge or magistrate to impose the
16 least restrictive conditions of bail that may be necessary and
17 authorizing the denial of bail under some circumstances to a person
18 accused of a violent or sexual offense or of continuous trafficking
19 of persons is approved by the voters. If that amendment is not
20 approved by the voters, Article 17.15(b), Code of Criminal
21 Procedure, has no effect.

22 (c) Articles 17.021 and 17.024, Code of Criminal Procedure,
23 as added by this Act, and Sections 3, 15, 17, 18, and 19 of this Act
24 take effect on the 91st day after the last day of the legislative
25 session.