

By: Huffman, et al.

S.B. No. 6

A BILL TO BE ENTITLED

AN ACT

1
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 and list each factor provided by Article 17.15(a);

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;

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; and

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

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

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

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

27 (2) include a score, rating, or assessment of a

1 defendant's risk or make any recommendation regarding the
2 appropriate bail for the defendant; or

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

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

9 (1) the personal bond office established under Article
10 17.42 for the county in which the defendant is being detained, if a
11 personal bond office has been established for that county, or other
12 suitably trained person including judicial personnel or sheriff's
13 department personnel, use the public safety report system developed
14 under Article 17.021 to prepare a public safety report with respect
15 to the defendant; and

16 (2) the public safety report prepared under
17 Subdivision (1) be provided to the magistrate as soon as
18 practicable but not later than 48 hours after the defendant's
19 arrest.

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

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

27 (d) The magistrate shall consider the public safety report

1 before setting bail.

2 (e) A magistrate may not order, prepare, or consider a
3 public safety report in setting bail for a defendant charged only
4 with a misdemeanor punishable by fine only.

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

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

8 (1) punishable as a felony; or

9 (2) a misdemeanor punishable by confinement.

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

12 (1) either:

13 (A) a resident of this state and one of the
14 counties served by the magistrate;

15 (B) a justice of the peace serving under Section
16 27.054 or 27.055, Government Code; or

17 (C) a judge or justice serving under Chapter 74,
18 Government Code; and

19 (2) in compliance with the training requirements of
20 Article 17.024.

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

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

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

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

10 The courses developed must include:

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

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

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

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

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

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

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

27 (c-1) Notwithstanding Subsection (c), a magistrate who is

1 servicing on December 1, 2021, is considered to be in compliance with
2 Subsection (c)(1) if the magistrate successfully completes the
3 training course not later than August 1, 2022. This subsection
4 expires February 1, 2023.

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

10 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH
11 OFFENSE COMMITTED WHILE ON BAIL. (a) Notwithstanding any other
12 law:

13 (1) if a defendant is charged with committing an
14 offense punishable as a felony while released on bail for another
15 offense punishable as a felony and the subsequent offense was
16 committed in the same county as the previous offense, only the court
17 before whom the case for the previous offense is pending may release
18 the defendant on bail; and

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

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

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

6 (1) granted personal bond with or without conditions;
7 (2) granted surety or cash bond with or without
8 conditions; or

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

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

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

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

25 (1) is inconsistent with this article; or
26 (2) authorizes a magistrate to make a bail decision
27 for a defendant without considering each of the factors in Article

1 17.15(a).

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

6 (f) A defendant who is charged with an offense punishable as
7 a Class B misdemeanor or any higher category of offense shall be
8 provided with the opportunity to file with the applicable
9 magistrate a sworn affidavit in substantially the following form:

10 "On this ___ day of _____, 2____, I have been advised by the
11 (name of the court) Court of the importance of providing true and
12 complete information about my financial situation in connection
13 with the charge pending against me. I am without means to pay
14 _____ and I hereby request the court to set an appropriate bail.
15 (signature of defendant)."

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

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

25 (2) the defendant's employment history and the
26 employment history of the defendant's spouse, including gross
27 monthly pay, for the preceding two years;

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

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

6 (5) money owed to the defendant or to the defendant's
7 spouse;

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

10 (7) an itemized estimate of the defendant's monthly
11 expenses;

12 (8) an estimate of the defendant's tax and legal
13 expenses;

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

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

19 (h) A defendant who files an affidavit under Subsection (f)
20 is entitled to a prompt hearing before the magistrate on the bail
21 amount. The hearing may be held before the magistrate making the
22 bail decision under Subsection (a) or may occur as a separate
23 pretrial proceeding held for that purpose. The defendant must be
24 given the opportunity to present evidence and respond to evidence
25 presented by the attorney representing the state. The magistrate
26 shall consider the facts presented and the rules established by
27 Article 17.15(a) and shall set the defendant's bail. If the

1 magistrate does not set the defendant's bail in an amount below the
2 amount required by the schedule, the magistrate shall issue written
3 findings of fact supporting the bail decision.

4 (i) The judges of the courts trying criminal cases in a
5 county must report to the Office of Court Administration of the
6 Texas Judicial System each defendant for whom a hearing under
7 Subsection (h) was not held within 48 hours of the defendant's
8 arrest. If a delay occurs that will cause the hearing under
9 Subsection (h) to be held later than 48 hours after the defendant's
10 arrest, the magistrate or an employee of the court or of the county
11 in which the defendant is confined must notify the defendant's
12 counsel of the delay.

13 (j) The magistrate may enter an order or take other action
14 authorized by Article 16.22 with respect to a defendant who does not
15 appear competent to execute an affidavit under Subsection (f).

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

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

24 (m) Notwithstanding Subsection (a), a magistrate may make a
25 bail decision regarding a defendant who is charged only with a
26 misdemeanor punishable by fine only without considering the factor
27 required by Article 17.15(a)(6).

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

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

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

- 8 (A) ~~[Section 19.03 (Capital Murder)];~~
9 ~~[(B) Section 20.04 (Aggravated Kidnapping)];~~
10 ~~[(C) Section 22.021 (Aggravated Sexual Assault)];~~
11 ~~[(D) Section 22.03 (Deadly Assault on Law~~
12 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
13 ~~Pardons and Paroles, or Court Participant)];~~
14 ~~[(E) Section 22.04 (Injury to a Child, Elderly~~
15 ~~Individual, or Disabled Individual)];~~
16 ~~[(F) Section 29.03 (Aggravated Robbery)];~~
17 ~~[(G)]~~ Section 30.02 (Burglary); or
18 (B) ~~[(H)]~~ Section 71.02 (Engaging in Organized
19 Criminal Activity);
20 ~~[(I) Section 21.02 (Continuous Sexual Abuse of~~
21 ~~Young Child or Disabled Individual)]; or~~
22 ~~[(J) Section 20A.03 (Continuous Trafficking of~~
23 ~~Persons)];~~

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

1 felony; or

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

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

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

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

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

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

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

16 (ii) Section 22.05 (deadly conduct);

17 (iii) Section 22.07 (terroristic threat);

18 or

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

21 (b-3) In this article:

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

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

26 (A) Section 19.02 (murder);

27 (B) Section 19.03 (capital murder);

- 1 (C) Section 20.03 (kidnapping);
2 (D) Section 20.04 (aggravated kidnapping);
3 (E) Section 20A.02 (trafficking of persons);
4 (F) Section 20A.03 (continuous trafficking of
5 persons);
6 (G) Section 21.02 (continuous sexual abuse of
7 young child or disabled individual);
8 (H) Section 21.11 (indecent with a child);
9 (I) Section 22.01(a)(1) (assault), if the
10 offense:
11 (i) is punishable as a felony of the second
12 degree under Subsection (b-2) of that section; or
13 (ii) involved family violence as defined by
14 Section 71.004, Family Code;
15 (J) Section 22.011 (sexual assault);
16 (K) Section 22.02 (aggravated assault);
17 (L) Section 22.021 (aggravated sexual assault);
18 (M) Section 22.04 (injury to a child, elderly
19 individual, or disabled individual);
20 (N) Section 25.072 (repeated violation of
21 certain court orders or conditions of bond in family violence,
22 child abuse or neglect, sexual assault or abuse, indecent assault,
23 stalking, or trafficking case);
24 (O) Section 25.11 (continuous violence against
25 the family);
26 (P) Section 29.03 (aggravated robbery);
27 (Q) Section 38.14 (taking or attempting to take

1 weapon from peace officer, federal special investigator, employee
2 or official of correctional facility, parole officer, community
3 supervision and corrections department officer, or commissioned
4 security officer);

5 (R) Section 43.04 (aggravated promotion of
6 prostitution);

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

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

10 (b) This section takes effect on the 91st day after the last
11 day of the legislative session if this Act does not receive a vote
12 of two-thirds of all the members elected to each house, as provided
13 by Section 39, Article III, Texas Constitution. If this Act
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution,
16 this section has no effect.

17 SECTION 6. (a) Article 17.03, Code of Criminal Procedure,
18 is amended by amending Subsection (b) and adding Subsections (b-2)
19 and (b-3) to read as follows:

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

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

24 (A) [~~Section 19.03 (Capital Murder),~~

25 [~~(B) Section 20.04 (Aggravated Kidnapping),~~

26 [~~(C) Section 22.021 (Aggravated Sexual Assault),~~

27 [~~(D) Section 22.03 (Deadly Assault on Law~~

1 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
2 ~~Pardons and Paroles, or Court Participant);~~

3 [~~(E) Section 22.04 (Injury to a Child, Elderly~~
4 ~~Individual, or Disabled Individual);~~

5 [~~(F) Section 29.03 (Aggravated Robbery);~~

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

7 (B) [~~(H)] Section 71.02 (Engaging in Organized~~
8 Criminal Activity);

9 [~~(I) Section 21.02 (Continuous Sexual Abuse of~~
10 ~~Young Child or Children); or~~

11 [~~(J) Section 20A.03 (Continuous Trafficking of~~
12 ~~Persons);]~~

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

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

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

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

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

1 (A) any offense punishable as a felony; or
2 (B) an offense under the following provisions of
3 the Penal Code:

- 4 (i) Section 22.01(a)(1) (assault);
5 (ii) Section 22.05 (deadly conduct);
6 (iii) Section 22.07 (terroristic threat);
7 or
8 (iv) Section 42.01(a)(7) or (8) (disorderly
9 conduct involving firearm).

10 (b-3) In this article:

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

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

- 15 (A) Section 19.02 (murder);
16 (B) Section 19.03 (capital murder);
17 (C) Section 20.03 (kidnapping);
18 (D) Section 20.04 (aggravated kidnapping);
19 (E) Section 20A.02 (trafficking of persons);
20 (F) Section 20A.03 (continuous trafficking of
21 persons);
22 (G) Section 21.02 (continuous sexual abuse of
23 young child or children);
24 (H) Section 21.11 (indecent with a child);
25 (I) Section 22.01(a)(1) (assault), if the
26 offense:

27 (i) is punishable as a felony of the second

1 degree under Subsection (b-2) of that section; or
2 (ii) involved family violence as defined by
3 Section 71.004, Family Code;
4 (J) Section 22.011 (sexual assault);
5 (K) Section 22.02 (aggravated assault);
6 (L) Section 22.021 (aggravated sexual assault);
7 (M) Section 22.04 (injury to a child, elderly
8 individual, or disabled individual);
9 (N) Section 25.072 (repeated violation of
10 certain court orders or conditions of bond in family violence,
11 child abuse or neglect, sexual assault or abuse, indecent assault,
12 stalking, or trafficking case);
13 (O) Section 25.11 (continuous violence against
14 the family);
15 (P) Section 29.03 (aggravated robbery);
16 (Q) Section 38.14 (taking or attempting to take
17 weapon from peace officer, federal special investigator, employee
18 or official of correctional facility, parole officer, community
19 supervision and corrections department officer, or commissioned
20 security officer);
21 (R) Section 43.04 (aggravated promotion of
22 prostitution);
23 (S) Section 43.05 (compelling prostitution); or
24 (T) Section 43.25 (sexual performance by a
25 child).

26 (b) This section takes effect immediately if this Act
27 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote described by this subsection,
3 this section has no effect.

4 SECTION 7. Chapter 17, Code of Criminal Procedure, is
5 amended by adding Articles 17.0501 and 17.071 to read as follows:

6 Art. 17.0501. REQUIRED TRAINING. The Department of Public
7 Safety shall develop training courses that relate to the use of the
8 statewide telecommunications system maintained by the department
9 and that are directed to each magistrate, judge, sheriff, peace
10 officer, or jailer required to obtain criminal history record
11 information under this chapter, as necessary to enable the person
12 to fulfill those requirements.

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

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

21 (2) a nonprofit corporation organized for the purpose
22 of religious worship.

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

26 (c) A charitable bail organization shall file in the office
27 of the county clerk of each county where the organization intends to

1 pay bail bonds an affidavit designating the individuals authorized
2 to pay bonds on behalf of the organization.

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

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

7 (2) have not previously been convicted of an offense
8 involving violence as defined by Article 17.03 during the 10-year
9 period preceding the date of the defendant's arrest for the instant
10 offense.

11 (e) Not later than the 10th day of each month, a charitable
12 bail organization shall submit, to the presiding judge of the
13 administrative judicial region for each county in which the
14 organization files an affidavit under Subsection (c), a report that
15 includes the following information for each defendant for whom the
16 organization paid a bail bond in the preceding calendar month:

17 (1) the name of the defendant;

18 (2) the cause number of the case;

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

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

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

1 (g) The presiding judge of the administrative judicial
2 region may suspend a charitable bail organization from paying bail
3 bonds in the administrative judicial region for one year if the
4 presiding judge of the administrative judicial region for the
5 county determines the organization has paid bonds in violation of
6 this article.

7 (h) Chapter 22 applies to a bail bond paid by a charitable
8 bail organization.

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

11 SECTION 8. Article 17.15, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 17.15. RULES FOR SETTING [~~FIXING~~] AMOUNT OF BAIL. (a)
14 The amount of bail and any conditions of bail to be required in any
15 case are [~~is~~] to be regulated by the court, judge, magistrate, or
16 officer taking the bail in accordance with Articles 17.20, 17.21,
17 and 17.22 and [~~they~~] are [~~to be~~] governed [~~in the exercise of this~~
18 ~~discretion~~] by the Constitution and [~~by~~] the following rules:

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

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

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

27 (A) is an offense involving violence as defined

1 by Article 17.03; or

2 (B) involves violence directed against a peace
3 officer.

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

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

8 6. The criminal history record information for the
9 defendant, including information obtained through the statewide
10 telecommunications system maintained by the Department of Public
11 Safety and through the public safety report system developed under
12 Article 17.021, shall be considered, including any acts of family
13 violence, other pending criminal charges, and any instances in
14 which the defendant failed to appear in court following release on
15 bail.

16 7. The citizenship status of the defendant shall be
17 considered.

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

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

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

26 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of
27 misdemeanor, the sheriff or other peace officer, or a jailer

1 licensed under Chapter 1701, Occupations Code, may, whether during
2 the term of the court or in vacation, where the officer has a
3 defendant in custody, take the defendant's [~~of the defendant a~~]
4 bail [~~bond~~].

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

11 (c) If the defendant is charged with or has previously been
12 convicted of an offense involving violence as defined by Article
13 17.03, the sheriff, officer, or jailer may not set the amount of the
14 defendant's bail but may take the defendant's bail in the amount set
15 by the court.

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

18 Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case,
19 if the court before which the case [~~same~~] is pending is not in
20 session in the county where the defendant is in custody, the sheriff
21 or other peace officer, or a jailer licensed under Chapter 1701,
22 Occupations Code, who has the defendant in custody may take the
23 defendant's bail [~~bond~~] in the [~~such~~] amount set [~~as may have been~~
24 ~~fixed~~] by the court or magistrate, or if no amount has been set
25 [~~fixed~~], then in any [~~such~~] amount that the [~~as such~~] officer
26 considers [~~may consider~~] reasonable and that is in compliance with
27 Article 17.15.

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

7 (c) If the defendant is charged with or has previously been
8 convicted of an offense involving violence as defined by Article
9 17.03, the sheriff, officer, or jailer may not set the amount of the
10 defendant's bail but may take the defendant's bail in the amount set
11 by the court.

12 SECTION 11. Chapter 17, Code of Criminal Procedure, is
13 amended by adding Articles 17.51, 17.52, and 17.53 to read as
14 follows:

15 Art. 17.51. NOTICE OF CONDITIONS. (a) As soon as
16 practicable but not later than the next business day after the date
17 a magistrate issues an order imposing a condition of release on bond
18 for a defendant or modifying or removing a condition previously
19 imposed, the clerk of the court shall send a copy of the order to:

20 (1) the appropriate attorney representing the state;
21 and

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

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

27 (c) If an order described by Subsection (a) prohibits a

1 defendant from going to or near a child care facility or school, the
2 clerk of the court shall send a copy of the order to the child care
3 facility or school.

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

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

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

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

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

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

20 Art. 17.52. REPORTING OF CONDITIONS. A chief of police or
21 sheriff who receives a copy of an order described by Article
22 17.51(a), or the chief's or sheriff's designee, shall, as soon as
23 practicable but not later than the 10th day after the date the copy
24 is received, enter information relating to the condition of release
25 into the appropriate database of the statewide law enforcement
26 information system maintained by the Department of Public Safety or
27 modify or remove information, as appropriate.

1 Art. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND.

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

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

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

10 SECTION 12. Article 66.102(c), Code of Criminal Procedure,
11 is amended to read as follows:

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

14 (1) the offender's name;
15 (2) the offender's state identification number;
16 (3) the arresting law enforcement agency;
17 (4) the arrest charge, by offense code and incident
18 number;

19 (5) whether the arrest charge is a misdemeanor or
20 felony;

21 (6) the date of the arrest;

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

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

27 (9) [~~(8)~~] the date of disposition of the case by the

1 law enforcement agency.

2 SECTION 13. Section 27.005, Government Code, is amended to
3 read as follows:

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

8 (1) within one year after the date the justice is first
9 elected:

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

12 (B) the course described by Article
13 17.024(a)(1), Code of Criminal Procedure; and

14 (C) the course described by Article 17.0501, Code
15 of Criminal Procedure;

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

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

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

25 SECTION 14. 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;

8 (B) the number of personal bonds; and

9 (C) the number of surety or cash bonds;

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

12 (3) the number of defendants released on bail who
13 subsequently violated a condition of release; and

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

16 (b) The office shall post the information in a publicly
17 accessible place on the agency's Internet website without
18 disclosing any personal information of any defendant, judge, or
19 magistrate.

20 (c) Not later than December 1 of each year, the office shall
21 submit a report containing the data collected under this section
22 during the previous state fiscal year to the governor, the
23 lieutenant governor, the speaker of the house of representatives,
24 and the standing committees of each house of the legislature with
25 jurisdiction over the judiciary.

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

1 Sec. 72.038. BAIL FORM. (a) The office shall promulgate a
2 form to be completed by a magistrate, judge, sheriff, peace
3 officer, or jailer who sets bail under Chapter 17, Code of Criminal
4 Procedure, for a defendant charged with an offense punishable as a
5 Class B misdemeanor or any higher category of offense.

6 (b) The form must:

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

10 (2) state the name and the office or position of the
11 person setting bail;

12 (3) require the person setting bail to:

13 (A) identify the bail type, the amount of the
14 bail, and any conditions of bail;

15 (B) certify that the person considered each
16 factor provided by Article 17.15(a), Code of Criminal Procedure;
17 and

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

21 (4) be electronically signed by the person setting the
22 bail.

23 (c) The person setting bail, an employee of the court that
24 set the defendant's bail, or an employee of the county in which the
25 defendant's bail was set must promptly and electronically provide
26 the form required under this section to the office on completion of
27 the form.

1 (d) The office shall:

2 (1) publish each form submitted under this section in
3 a database that is publicly accessible on the office's Internet
4 website; and

5 (2) enter the submitted form into the public safety
6 report system developed under Article 17.021, Code of Criminal
7 Procedure.

8 SECTION 16. Section [117.055](#), Local Government Code, is
9 amended by amending Subsection (a) and adding Subsections (a-1) and
10 (a-2) to read as follows:

11 (a) Except as provided by Subsection (a-1), to ~~[To]~~
12 compensate the county for the accounting and administrative
13 expenses incurred in handling the registry funds that have not
14 earned interest, including funds in a special or separate account,
15 the clerk shall, at the time of withdrawal, deduct from the amount
16 of the withdrawal a fee in an amount equal to five percent of the
17 withdrawal but that may not exceed \$50. Withdrawal of funds
18 generated from a case arising under the Family Code is exempt from
19 the fee deduction provided by this section.

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

23 (1) the defendant was found not guilty after a trial or
24 appeal; or

25 (2) the complaint, information, or indictment was
26 dismissed without a plea of guilty or nolo contendere being
27 entered.

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

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

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

11 SECTION 17. Article 17.03(f), Code of Criminal Procedure,
12 is repealed.

13 SECTION 18. As soon as practicable but not later than
14 December 1, 2021, the Office of Court Administration of the Texas
15 Judicial System shall create the public safety report system
16 developed under Article 17.021, Code of Criminal Procedure, as
17 added by this Act, and any related forms and materials and shall
18 provide to the appropriate officials in each county and
19 municipality access to the system, forms, and materials at no cost.
20 If those items are made available before December 1, 2021, the
21 office shall notify each court clerk, judge or other magistrate,
22 and office of an attorney representing the state.

23 SECTION 19. (a) As soon as practicable but not later than
24 December 1, 2021, the Office of Court Administration of the Texas
25 Judicial System shall:

26 (1) promulgate the forms required by Articles
27 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by

1 this Act, and by Section 72.038, Government Code, as added by this
2 Act; and

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

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

12 SECTION 20. Section 117.055, Local Government Code, as
13 amended by this Act, applies only to a withdrawal of funds from a
14 court registry under Section 117.055, Local Government Code, made
15 on or after the effective date provided by Section 22(c) of this
16 Act. A withdrawal of funds from a court registry made before the
17 effective date provided by Section 22(c) of this Act is governed by
18 the law in effect on the date the withdrawal was made, and the
19 former law is continued in effect for that purpose.

20 SECTION 21. The changes in law made by this Act apply only
21 to a person who is arrested on or after the effective date of this
22 Act. A person arrested before the effective date of this Act is
23 governed by the law in effect on the date the person was arrested,
24 and the former law is continued in effect for that purpose.

25 SECTION 22. (a) Except as provided by Subsections (b) and
26 (c) of this section or another provision of this Act, this Act takes
27 effect December 1, 2021.

1 (b) Articles 17.028(b) and 17.15(b), Code of Criminal
2 Procedure, as added by this Act, take effect December 1, 2021, but
3 only if the constitutional amendment proposed by the 87th
4 Legislature, 1st Called Session, 2021, requiring a judge or
5 magistrate to impose the least restrictive conditions of bail that
6 may be necessary and authorizing the denial of bail under some
7 circumstances to a person accused of a violent or sexual offense or
8 of continuous trafficking of persons is approved by the voters. If
9 that amendment is not approved by the voters, Articles 17.028(b)
10 and 17.15(b), Code of Criminal Procedure, have no effect.

11 (c) Articles 17.021 and 17.024, Code of Criminal Procedure,
12 as added by this Act, and Sections 3, 16, 18, 19, and 20 of this Act
13 take effect on the 91st day after the last day of the legislative
14 session.