

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 15.17(a), Code of Criminal Procedure, is  
19 amended to read as follows:

20 (a) In each case enumerated in this Code, the person making  
21 the arrest or the person having custody of the person arrested shall  
22 without unnecessary delay, but not later than 48 hours after the  
23 person is arrested, take the person arrested or have him taken  
24 before some magistrate of the county where the accused was arrested

1 or, to provide more expeditiously to the person arrested the  
2 warnings described by this article, before a magistrate in any  
3 other county of this state. The arrested person may be taken before  
4 the magistrate in person or the image of the arrested person may be  
5 presented to the magistrate by means of a videoconference. The  
6 magistrate shall inform in clear language the person arrested,  
7 either in person or through a videoconference, of the accusation  
8 against him and of any affidavit filed therewith, of his right to  
9 retain counsel, of his right to remain silent, of his right to have  
10 an attorney present during any interview with peace officers or  
11 attorneys representing the state, of his right to terminate the  
12 interview at any time, and of his right to have an examining trial.  
13 The magistrate shall also inform the person arrested of the  
14 person's right to request the appointment of counsel if the person  
15 cannot afford counsel. The magistrate shall inform the person  
16 arrested of the procedures for requesting appointment of counsel.  
17 If applicable, the magistrate shall inform the person that the  
18 person may file the affidavit described by Article 17.028(f). If  
19 the person does not speak and understand the English language or is  
20 deaf, the magistrate shall inform the person in a manner consistent  
21 with Articles 38.30 and 38.31, as appropriate. The magistrate  
22 shall ensure that reasonable assistance in completing the necessary  
23 forms for requesting appointment of counsel is provided to the  
24 person at the same time. If the person arrested is indigent and  
25 requests appointment of counsel and if the magistrate is authorized  
26 under Article 26.04 to appoint counsel for indigent defendants in  
27 the county, the magistrate shall appoint counsel in accordance with

1 Article 1.051. If the magistrate is not authorized to appoint  
2 counsel, the magistrate shall without unnecessary delay, but not  
3 later than 24 hours after the person arrested requests appointment  
4 of counsel, transmit, or cause to be transmitted to the court or to  
5 the courts' designee authorized under Article 26.04 to appoint  
6 counsel in the county, the forms requesting the appointment of  
7 counsel. The magistrate shall also inform the person arrested that  
8 he is not required to make a statement and that any statement made  
9 by him may be used against him. The magistrate shall allow the  
10 person arrested reasonable time and opportunity to consult counsel  
11 and shall, after determining whether the person is currently on  
12 bail for a separate criminal offense and whether the bail decision  
13 is subject to Article 17.027, admit the person arrested to bail if  
14 allowed by law. A record of the communication between the arrested  
15 person and the magistrate shall be made. The record shall be  
16 preserved until the earlier of the following dates: (1) the date on  
17 which the pretrial hearing ends; or (2) the 91st day after the date  
18 on which the record is made if the person is charged with a  
19 misdemeanor or the 120th day after the date on which the record is  
20 made if the person is charged with a felony. For purposes of this  
21 subsection, "videoconference" means a two-way electronic  
22 communication of image and sound between the arrested person and  
23 the magistrate and includes secure Internet videoconferencing.

24 SECTION 4. Article 17.02, Code of Criminal Procedure, is  
25 amended to read as follows:

26 Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a  
27 written undertaking entered into by the defendant and the

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

13 (1) any person in the name of whom a receipt was  
14 issued, including the defendant if a receipt was issued to the  
15 defendant; or

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

18 SECTION 5. Chapter [17](#), Code of Criminal Procedure, is  
19 amended by adding Articles [17.021](#), [17.022](#), [17.023](#), [17.024](#), [17.027](#),  
20 and [17.028](#) to read as follows:

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

25 (b) The public safety report system must:

26 (1) state the requirements for setting bail under  
27 Article [17.15](#) and list each factor provided by Article [17.15\(a\)](#);

1           (2) provide the defendant's name and date of birth, the  
2 cause number of the case, if available, and the offense for which  
3 the defendant was arrested;

4           (3) provide information on the eligibility of the  
5 defendant for a personal bond;

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

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

10                   (A) previous misdemeanor or felony convictions;

11                   (B) pending charges;

12                   (C) previous sentences imposing a term of  
13 confinement;

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

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

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

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

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

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

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

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

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

12                 (1) the number for each category of offense;

13                 (2) the number of personal bonds; and

14                 (3) the number of monetary bonds.

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

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

25                 (1) the personal bond office established under Article  
26 17.42 for the county in which the defendant is being detained, if a  
27 personal bond office has been established for that county, or other

1 suitably trained person including judicial personnel or sheriff's  
2 department personnel, use the public safety report system developed  
3 under Article 17.021 to prepare a public safety report with respect  
4 to the defendant; and

5 (2) the public safety report prepared under  
6 Subdivision (1) be provided to the magistrate as soon as  
7 practicable but not later than 48 hours after the defendant's  
8 arrest.

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

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

16 (d) The magistrate shall:

17 (1) consider the public safety report before setting  
18 bail; and

19 (2) promptly but not later than 72 hours after the time  
20 bail is set, submit the bail form described by Section 72.038,  
21 Government Code, in accordance with that section.

22 (e) A magistrate may, but is not required to, order,  
23 prepare, or consider a public safety report in setting bail for a  
24 defendant charged only with a misdemeanor punishable by fine only.

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

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

1           (1) punishable as a felony; or

2           (2) a misdemeanor punishable by confinement.

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

5           (1) any of the following:

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

8                   (B) a justice of the peace serving under Section  
9 27.054 or 27.055, Government Code; or

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

12           (2) in compliance with the training requirements of  
13 Article 17.024.

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

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

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

25           Art. 17.024. TRAINING ON DUTIES REGARDING BAIL. (a) The  
26 Office of Court Administration of the Texas Judicial System shall,  
27 in consultation with the court of criminal appeals, develop or



1 approve training courses regarding a magistrate's duties,  
2 including duties with respect to setting bail in criminal cases.

3 The courses developed must include:

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

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

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

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

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

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

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

22 (c-1) Notwithstanding Subsection (c), a magistrate who is  
23 serving on January 1, 2022, is considered to be in compliance with  
24 Subsection (c)(1) if the magistrate successfully completes the  
25 training course not later than September 1, 2022. This subsection  
26 expires February 1, 2023.

27 (d) Any course developed or approved by the office under

1 this article may be administered by the Texas Justice Court  
2 Training Center, the Texas Municipal Courts Education Center, the  
3 Texas Association of Counties, the Texas Center for the Judiciary,  
4 or a similar entity.

5 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH  
6 OFFENSE COMMITTED WHILE ON BAIL. (a) Notwithstanding any other  
7 law:

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

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

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

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

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

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

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

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

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

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

20                   (1) is inconsistent with this article; or

21                   (2) authorizes a magistrate to make a bail decision  
22 for a defendant without considering each of the factors in Article  
23 17.15(a).

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

1       (f) A defendant who is charged with an offense punishable as  
2 a Class B misdemeanor or any higher category of offense and who is  
3 unable to give bail in the amount required by a schedule or order  
4 described by Subsection (e), other than a defendant who is denied  
5 bail, shall be provided with the opportunity to file with the  
6 applicable magistrate a sworn affidavit in substantially the  
7 following form:

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

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

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

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

26               (2) ensure that the defendant receives reasonable  
27 assistance in completing the affidavit described by Subsection (f)

1 and the form described by Subsection (g).

2 (h) A defendant described by Subsection (f) may file an  
3 affidavit under Subsection (f) at any time before or during the bail  
4 proceeding under Subsection (a). A defendant who files an  
5 affidavit under Subsection (f) is entitled to a prompt hearing  
6 before the magistrate on the bail amount. The hearing may be held  
7 before the magistrate making the bail decision under Subsection (a)  
8 or may occur as a separate pretrial proceeding held for that  
9 purpose. The defendant must be given the opportunity to present  
10 evidence and respond to evidence presented by the attorney  
11 representing the state. The magistrate shall consider the facts  
12 presented and the rules established by Article 17.15(a) and shall  
13 set the defendant's bail. If the magistrate does not set the  
14 defendant's bail in an amount below the amount required by the  
15 schedule or order described by Subsection (e), the magistrate shall  
16 issue written findings of fact supporting the bail decision.

17 (i) The judges of the courts trying criminal cases and other  
18 magistrates in a county must report to the Office of Court  
19 Administration of the Texas Judicial System each defendant for whom  
20 a hearing under Subsection (h) was not held within 48 hours of the  
21 defendant's arrest. If a delay occurs that will cause the hearing  
22 under Subsection (h) to be held later than 48 hours after the  
23 defendant's arrest, the magistrate or an employee of the court or of  
24 the county in which the defendant is confined must notify the  
25 defendant's 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 capable of executing 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 (m) Notwithstanding Subsection (a), a magistrate may make a  
11 bail decision regarding a defendant who is charged only with a  
12 misdemeanor punishable by fine only without considering the factor  
13 required by Article 17.15(a)(6).

14 SECTION 6. (a) Article 17.03, Code of Criminal Procedure,  
15 as effective September 1, 2021, is amended by amending Subsection  
16 (b) and adding Subsections (b-2) and (b-3) to read as follows:

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

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

- 21 (A) [~~Section 19.03 (Capital Murder),~~  
22 [~~(B) Section 20.04 (Aggravated Kidnapping),~~  
23 [~~(C) Section 22.021 (Aggravated Sexual Assault),~~  
24 [~~(D) Section 22.03 (Deadly Assault on Law~~  
25 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~  
26 ~~Pardons and Paroles, or Court Participant),~~  
27 [~~(E) Section 22.04 (Injury to a Child, Elderly~~

1 ~~Individual, or Disabled Individual);~~  
2 ~~[(F) Section 29.03 (Aggravated Robbery);~~  
3 ~~[(G)] Section 30.02 (Burglary); or~~  
4 (B) ~~[(H)] Section 71.02 (Engaging in Organized~~  
5 ~~Criminal Activity);~~  
6 ~~[(I) Section 21.02 (Continuous Sexual Abuse of~~  
7 ~~Young Child or Disabled Individual); or~~  
8 ~~[(J) Section 20A.03 (Continuous Trafficking of~~  
9 ~~Persons);]~~

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

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

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

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

25 (A) any offense punishable as a felony; or  
26 (B) an offense under the following provisions of  
27 the Penal Code:

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

7           (b-3) In this article:

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

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

- 12                   (A) Section 19.02 (murder);
- 13                   (B) Section 19.03 (capital murder);
- 14                   (C) Section 20.03 (kidnapping);
- 15                   (D) Section 20.04 (aggravated kidnapping);
- 16                   (E) Section 20A.02 (trafficking of persons);
- 17                   (F) Section 20A.03 (continuous trafficking of
- 18 persons);
- 19                   (G) Section 21.02 (continuous sexual abuse of
- 20 young child or disabled individual);

- 21                   (H) Section 21.11 (indecent with a child);
- 22                   (I) Section 22.01(a)(1) (assault), if the
- 23 offense:

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

26                   (ii) involved family violence as defined by  
27 Section 71.004, Family Code;



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

23           (b) This section takes effect on the 91st day after the last  
24 day of the legislative session if this Act does not receive a vote  
25 of two-thirds of all the members elected to each house, as provided  
26 by Section 39, Article III, Texas Constitution. 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 this section has no effect.

3 SECTION 7. (a) Article 17.03, Code of Criminal Procedure,  
4 is amended by amending Subsection (b) and adding Subsections (b-2)  
5 and (b-3) to read as follows:

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

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

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

26 (2) is charged with a felony under Chapter 481, Health  
27 and Safety Code, or Section 485.033, Health and Safety Code,

1 punishable by imprisonment for a minimum term or by a maximum fine  
2 that is more than a minimum term or maximum fine for a first degree  
3 felony; or

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

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

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

14 (A) any offense punishable as a felony; or  
15 (B) an offense under the following provisions of  
16 the Penal Code:

17 (i) Section 22.01(a)(1) (assault);  
18 (ii) Section 22.05 (deadly conduct);  
19 (iii) Section 22.07 (terroristic threat);

20 or

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

23 (b-3) In this article:

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

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

- 1           (A) Section 19.02 (murder);  
2           (B) Section 19.03 (capital murder);  
3           (C) Section 20.03 (kidnapping);  
4           (D) Section 20.04 (aggravated kidnapping);  
5           (E) Section 20A.02 (trafficking of persons);  
6           (F) Section 20A.03 (continuous trafficking of  
7 persons);  
8           (G) Section 21.02 (continuous sexual abuse of  
9 young child or children);  
10          (H) Section 21.11 (indecent with a child);  
11          (I) Section 22.01(a)(1) (assault), if the  
12 offense:  
13                   (i) is punishable as a felony of the second  
14 degree under Subsection (b-2) of that section; or  
15                   (ii) involved family violence as defined by  
16 Section 71.004, Family Code;  
17          (J) Section 22.011 (sexual assault);  
18          (K) Section 22.02 (aggravated assault);  
19          (L) Section 22.021 (aggravated sexual assault);  
20          (M) Section 22.04 (injury to a child, elderly  
21 individual, or disabled individual);  
22          (N) Section 25.072 (repeated violation of  
23 certain court orders or conditions of bond in family violence,  
24 child abuse or neglect, sexual assault or abuse, indecent assault,  
25 stalking, or trafficking case);  
26          (O) Section 25.11 (continuous violence against  
27 the family);

1                   (P) Section 29.03 (aggravated robbery);

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

7                   (R) Section 43.04 (aggravated promotion of  
8 prostitution);

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

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

12           (b) This section takes effect immediately if this Act  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive a vote of two-thirds of all the members  
16 elected to each house, as provided by Section 39, Article III, Texas  
17 Constitution, this section has no effect.

18           SECTION 8. Chapter 17, Code of Criminal Procedure, is  
19 amended by adding Articles 17.0501 and 17.071 to read as follows:

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

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 violence  
20 as defined by Article 17.03; and

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

25 (e) Not later than the 10th day of each month, a charitable  
26 bail organization shall submit, to the presiding judge of the  
27 administrative judicial region for each county in which the

1 organization files an affidavit under Subsection (c), a report that  
2 includes the following information for each defendant for whom the  
3 organization paid a bail bond in the preceding calendar month:

4 (1) the name of the defendant;

5 (2) the cause number of the case;

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

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

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

15 (g) The presiding judge of an administrative judicial  
16 region may suspend a charitable bail organization from paying bail  
17 bonds in the administrative judicial region for one year if the  
18 presiding judge determines the organization has paid bonds in  
19 violation of this article.

20 (h) Chapter 22 applies to a bail bond paid by a charitable  
21 bail organization.

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

24 SECTION 9. Article 17.15, Code of Criminal Procedure, is  
25 amended to read as follows:

26 Art. 17.15. RULES FOR SETTING [~~FIXING~~] AMOUNT OF BAIL. (a)  
27 The amount of bail and any conditions of bail to be required in any

1 case are [~~is~~] to be regulated by the court, judge, magistrate, or  
2 officer taking the bail in accordance with Articles 17.20, 17.21,  
3 and 17.22 and [~~they~~] are [~~to be~~] governed [~~in the exercise of this~~  
4 ~~discretion~~] by the Constitution and [~~by~~] the following rules:

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

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

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

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

15 (B) involves violence directed against a peace  
16 officer.

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

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

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



1 bail.

2 7. The citizenship status of the defendant shall be  
3 considered.

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

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

10 SECTION 10. Article 17.20, Code of Criminal Procedure, is  
11 amended to read as follows:

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

18 (b) Before taking bail under this article, the sheriff,  
19 peace officer, or jailer shall obtain the defendant's criminal  
20 history record information 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.

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

1 by the court.

2 SECTION 11. Article [17.22](#), Code of Criminal Procedure, is  
3 amended to read as follows:

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

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

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

25 SECTION 12. Chapter [17](#), Code of Criminal Procedure, is  
26 amended by adding Articles [17.51](#), [17.52](#), and [17.53](#) to read as  
27 follows:

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

- 6           (1) the appropriate attorney representing the state;  
7 and  
8           (2) the sheriff of the county where the defendant  
9 resides.

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

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

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

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

- 22           (1) the conditions of release on bond; and  
23           (2) the penalties for violating a condition of  
24 release.

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

27       (g) The Office of Court Administration of the Texas Judicial

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

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

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

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

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

23 SECTION 13. Article 66.102(c), Code of Criminal Procedure,  
24 is amended to read as follows:

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

27 (1) the offender's name;

- 1 (2) the offender's state identification number;
- 2 (3) the arresting law enforcement agency;
- 3 (4) the arrest charge, by offense code and incident
- 4 number;
- 5 (5) whether the arrest charge is a misdemeanor or
- 6 felony;
- 7 (6) the date of the arrest;
- 8 (7) for an offender released on bail, whether a
- 9 warrant was issued for any subsequent failure of the offender to
- 10 appear in court;
- 11 (8) the exact disposition of the case by a law
- 12 enforcement agency following the arrest; and
- 13 (9) [~~8~~] the date of disposition of the case by the
- 14 law enforcement agency.

15 SECTION 14. Section 27.005, Government Code, is amended by

16 amending Subsection (a) and adding Subsection (c) to read as

17 follows:

18 (a) For purposes of removal under Chapter 87, Local

19 Government Code, "incompetency" in the case of a justice of the

20 peace includes the failure of the justice to successfully complete:

21 (1) within one year after the date the justice is first

22 elected:

23 (A) [7] an 80-hour course in the performance of

24 the justice's duties; and

25 (B) the course described by Article

26 17.024(a)(1), Code of Criminal Procedure;

27 (2) each following year, a 20-hour course in the

1 performance of the justice's duties, including not less than 10  
2 hours of instruction regarding substantive, procedural, and  
3 evidentiary law in civil matters; and

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

6 (c) A course described by Subsection (a)(1)(A) may include a  
7 course described by Subsection (a)(1)(B).

8 SECTION 15. Subchapter C, Chapter 71, Government Code, is  
9 amended by adding Section 71.0351 to read as follows:

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

15 (1) the number of defendants for whom bail was set,  
16 including:

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

18 (B) the number of personal bonds; and

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

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

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

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

26 (b) The office shall post the information in a publicly  
27 accessible place on the agency's Internet website without

1 disclosing any personal information of any defendant, judge, or  
2 magistrate.

3 (c) Not later than December 1 of each year, the office shall  
4 submit a report containing the data collected under this section  
5 during the preceding state fiscal year to the governor, lieutenant  
6 governor, speaker of the house of representatives, and presiding  
7 officers of the standing committees of each house of the  
8 legislature with primary jurisdiction over the judiciary.

9 SECTION 16. Subchapter C, Chapter 72, Government Code, is  
10 amended by adding Section 72.038 to read as follows:

11 Sec. 72.038. BAIL FORM. (a) The office shall promulgate a  
12 form to be completed by a magistrate, judge, sheriff, peace  
13 officer, or jailer who sets bail under Chapter 17, Code of Criminal  
14 Procedure, for a defendant charged with an offense punishable as a  
15 Class B misdemeanor or any higher category of offense. The office  
16 shall incorporate the completed forms into the public safety report  
17 system developed under Article 17.021, Code of Criminal Procedure.

18 (b) The form must:

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

22 (2) state the name and the office or position of the  
23 person setting bail;

24 (3) require the person setting bail to:

25 (A) identify the bail type, the amount of the  
26 bail, and any conditions of bail;

27 (B) certify that the person considered each

1 factor provided by Article 17.15(a), Code of Criminal Procedure;  
2 and

3 (C) certify that the person considered the  
4 information provided by the public safety report system; and

5 (4) be electronically signed by the person setting the  
6 bail.

7 (c) The person setting bail, an employee of the court that  
8 set the defendant's bail, or an employee of the county in which the  
9 defendant's bail was set must, on completion of the form required  
10 under this section, promptly but not later than 72 hours after the  
11 time the defendant's bail is set provide the form electronically to  
12 the office through the public safety report system.

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

16 SECTION 17. Section 117.055, Local Government Code, is  
17 amended by amending Subsection (a) and adding Subsections (a-1) and  
18 (a-2) to read as follows:

19 (a) Except as provided by Subsection (a-1), to [~~T~~o]  
20 compensate the county for the accounting and administrative  
21 expenses incurred in handling the registry funds that have not  
22 earned interest, including funds in a special or separate account,  
23 the clerk shall, at the time of withdrawal, deduct from the amount  
24 of the withdrawal a fee in an amount equal to five percent of the  
25 withdrawal but that may not exceed \$50. Withdrawal of funds  
26 generated from a case arising under the Family Code is exempt from  
27 the fee deduction provided by this section.



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

4           (1) the defendant was found not guilty after a trial or  
5 appeal; or

6           (2) the complaint, information, or indictment was  
7 dismissed without a plea of guilty or nolo contendere being  
8 entered.

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

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

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

19       SECTION 18. Article 17.03(f), Code of Criminal Procedure,  
20 is repealed.

21       SECTION 19. As soon as practicable but not later than  
22 January 1, 2022, the Office of Court Administration of the Texas  
23 Judicial System shall create the public safety report system  
24 developed under Article 17.021, Code of Criminal Procedure, as  
25 added by this Act, and any related forms and materials and shall  
26 provide to the appropriate officials in each county and each  
27 municipality access to the system, forms, and materials at no cost.

1 If those items are made available before January 1, 2022, the office  
2 shall notify each court clerk, judge or other magistrate, and  
3 office of an attorney representing the state.

4 SECTION 20. (a) As soon as practicable but not later than  
5 January 1, 2022, the Office of Court Administration of the Texas  
6 Judicial System shall:

7 (1) promulgate the forms required by Articles  
8 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by  
9 this Act, and by Section 72.038, Government Code, as added by this  
10 Act; and

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

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

20 SECTION 21. Section [117.055](#), Local Government Code, as  
21 amended by this Act, applies only to a withdrawal of funds from a  
22 court registry under Section [117.055](#), Local Government Code, made  
23 on or after the effective date provided by Section 23(c) of this  
24 Act. A withdrawal of funds from a court registry made before the  
25 effective date provided by Section 23(c) of this Act is governed by  
26 the law in effect on the date the withdrawal was made, and the  
27 former law is continued in effect for that purpose.

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

6           SECTION 23. (a) Except as provided by Subsection (b) or (c)  
7 of this section or another provision of this Act, this Act takes  
8 effect January 1, 2022.

9           (b) Article 17.15(b), Code of Criminal Procedure, as added  
10 by this Act, takes effect June 1, 2022, but only if the  
11 constitutional amendment proposed by the 87th Legislature, 2nd  
12 Called Session, 2021, requiring a judge or magistrate to impose the  
13 least restrictive conditions of bail that may be necessary and  
14 authorizing the denial of bail under some circumstances to a person  
15 accused of a violent or sexual offense or of continuous trafficking  
16 of persons is approved by the voters. If that amendment is not  
17 approved by the voters, Article 17.15(b), Code of Criminal  
18 Procedure, has no effect.

19           (c) Articles 17.021 and 17.024, Code of Criminal Procedure,  
20 as added by this Act, and Sections 4, 17, 19, 20, and 21 of this Act  
21 take effect on the 91st day after the last day of the legislative  
22 session.