

By: Sherman, Sr.

H.B. No. 4281

A BILL TO BE ENTITLED

AN ACT

relating to the pretrial release of defendants and a prohibition on the use of monetary bail bonds.

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

SECTION 1. This Act may be cited as the End Money Bail Act.

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

Art. 1.07. RIGHT TO BAIL. (a) All prisoners shall be bailable unless for capital offenses when the proof is evident. This provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

(b) Notwithstanding any other law, a prisoner may not be required to deposit money with the court or provide financial security for purposes of being released on bail.

SECTION 3. Article 14.06, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Subject to Subsection (b-1), a [A] peace officer who is charging a person, including a child, with committing a misdemeanor ~~[an] offense shall [that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may]~~, instead of taking the person before a magistrate, issue a citation to the person that contains:

1 (1) written notice of the time and place the person
2 must appear before a magistrate;

3 (2) the name and address of the person charged;

4 (3) the offense charged;

5 (4) information regarding the alternatives to the full
6 payment of any fine or costs assessed against the person, if the
7 person is convicted of the offense and is unable to pay that amount;
8 and

9 (5) the following admonishment, in boldfaced or
10 underlined type or in capital letters:

11 "If you are convicted of a misdemeanor offense involving
12 violence where you are or were a spouse, intimate partner, parent,
13 or guardian of the victim or are or were involved in another,
14 similar relationship with the victim, it may be unlawful for you to
15 possess or purchase a firearm, including a handgun or long gun, or
16 ammunition, pursuant to federal law under 18 U.S.C. Section
17 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
18 questions whether these laws make it illegal for you to possess or
19 purchase a firearm, you should consult an attorney."

20 (b-1) Subsection (b) does not apply if the peace officer has
21 reasonable cause to believe that conditions of release are
22 necessary in accordance with Articles 17.021(b) and (c) to ensure
23 the person's appearance in court as required or to ensure the safety
24 of an identifiable person.

25 SECTION 4. Article 15.17(g), Code of Criminal Procedure, is
26 amended to read as follows:

27 (g) If a person charged with an offense punishable as a

1 misdemeanor appears before a magistrate in compliance with a
2 citation issued under Article 14.06(b) [~~or (c)~~], the magistrate
3 shall perform the duties imposed by this article in the same manner
4 as if the person had been arrested and brought before the magistrate
5 by a peace officer. After the magistrate performs the duties
6 imposed by this article, the magistrate shall [~~except for good~~
7 ~~cause shown may~~] release the person on personal bond in accordance
8 with Article 17.021. If a person who was issued a citation for an
9 offense punishable as a Class A or B misdemeanor [~~under Article~~
10 ~~14.06(c)~~] fails to appear as required by that citation, the
11 magistrate before which the person is required to appear shall
12 issue a warrant for the arrest of the accused.

13 SECTION 5. Chapter 17, Code of Criminal Procedure, is
14 amended by adding Articles 17.021, 17.022, and 17.023 to read as
15 follows:

16 Art. 17.021. RELEASE ON PERSONAL BOND REQUIRED. (a)
17 Notwithstanding any other law, in each case in which a defendant is
18 eligible for bail under the constitution and laws of this state, the
19 magistrate considering the defendant's release shall order that the
20 defendant be:

21 (1) released on personal bond without conditions of
22 release; or

23 (2) released on personal bond with conditions of
24 release.

25 (b) Except as provided by Subsection (c), a magistrate may
26 not impose any condition of release on the defendant unless the
27 magistrate determines by clear and convincing evidence after

1 considering the specific facts concerning the defendant that:

2 (1) release on personal bond without conditions is
3 insufficient to reasonably mitigate a high risk of nonappearance or
4 of serious bodily injury to an identifiable person; and

5 (2) the conditions to be imposed are the least
6 restrictive conditions necessary to mitigate the risk described by
7 Subdivision (1).

8 (c) A magistrate may not impose a condition of release that
9 restricts the liberty of the defendant unless the magistrate
10 determines by clear and convincing evidence that the conditions to
11 be imposed are the least restrictive conditions necessary to
12 reasonably mitigate a high risk of imminent, intentional flight or
13 of serious bodily injury to an identifiable person. For purposes of
14 this subsection, a condition that restricts the defendant's liberty
15 includes a condition:

16 (1) requiring pretrial supervision;

17 (2) requiring drug testing;

18 (3) requiring inpatient or outpatient treatment;

19 (4) imposing travel restrictions or home confinement;

20 (5) imposing a curfew; or

21 (6) requiring electronic monitoring.

22 (d) Any condition imposed on a defendant's release must
23 preserve the ability of the defendant to confer with the
24 defendant's attorney and prepare for trial.

25 (e) A magistrate who imposes conditions of release shall
26 issue an order that includes an explanation of how the conditions
27 constitute the least restrictive conditions necessary to address

1 the specific risks identified with respect to the defendant.

2 (f) A defendant has the right to be represented by counsel
3 at any hearing at which the magistrate imposes conditions of
4 release on the defendant.

5 (g) A magistrate may not require a defendant to pay any fee
6 related to any condition of release.

7 Art. 17.022. RELEASE ON PERSONAL BOND PENDING SENTENCING OR
8 APPEAL. (a) Following conviction, any conditions of release that
9 are imposed on the defendant under Article 17.021 are presumed to be
10 sufficient to ensure the defendant's appearance in court for
11 sentencing or pending any appeal.

12 (b) A court may impose additional conditions of release on
13 the defendant only after a hearing at which the defendant has the
14 right to be represented by counsel.

15 Art. 17.023. REPORTING TO OFFICE OF COURT ADMINISTRATION.
16 (a) Each magistrate who releases a defendant on personal bond shall
17 submit a monthly report to the Office of Court Administration of the
18 Texas Judicial System with the following information for each
19 defendant released:

- 20 (1) the name;
21 (2) the offense charged;
22 (3) the length of the period the defendant was in
23 custody before release; and
24 (4) the conditions of release imposed on the
25 defendant.

26 (b) A report required by Subsection (a) must be on a form
27 prescribed by the Office of Court Administration.

1 SECTION 6. Articles 14.06(c) and (d), Code of Criminal
2 Procedure, are repealed.

3 SECTION 7. (a) Except as provided by Subsection (b) of this
4 section, the change in law made by this Act applies only to a person
5 who is arrested on or after the effective date of this Act. A person
6 who is arrested before the effective date of this Act is governed by
7 the law in effect on the date the person was arrested, and the
8 former law is continued in effect for that purpose.

9 (b) The change in law made by this Act in amending Articles
10 14.06 and 15.17, Code of Criminal Procedure, applies only to a
11 person who is issued a citation on or after the effective date of
12 this Act. A person who is issued a citation before the effective
13 date of this Act is governed by the law in effect on the date the
14 citation was issued, and the former law is continued in effect for
15 that purpose.

16 SECTION 8. This Act takes effect September 1, 2021.