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S.B. No. 21

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to rules for fixing the amount of bail, to the release of  
3 certain defendants on a bail 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. Chapter 17, Code of Criminal Procedure, is  
9 amended by adding Article 17.027 to read as follows:

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

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

21 (a) Except as provided by Subsection (b), ~~or~~ (b-1), or  
22 (b-2), a magistrate may, in the magistrate's discretion, release  
23 the defendant on personal bond without sureties or other security.

24 (b) Only the court before whom the case is pending may

1 release on personal bond a defendant who:

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

4 (A) Section 19.03 (Capital Murder);

5 (B) Section 20.04 (Aggravated Kidnapping);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 Art. 17.0501. REQUIRED TRAINING. The Department of Public  
14 Safety shall develop training courses that relate to the use of the  
15 statewide telecommunications system maintained by the department  
16 and that are directed to each magistrate, judge, sheriff, peace  
17 officer, or jailer required to obtain criminal history record  
18 information under this chapter, as necessary to enable the person  
19 to fulfill those requirements.

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

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

1 practicable.

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

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

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

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

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

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

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

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

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

1 report that includes the following information for each defendant  
2 for whom the organization paid a bail bond in the preceding calendar  
3 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) A sheriff may suspend a charitable bail organization  
16 from paying bail bonds in the sheriff's county for one year if the  
17 sheriff determines the organization has paid bonds in violation of  
18 this article.

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

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

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

25 Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. (a) The  
26 amount of bail to be required in any case is to be regulated by the  
27 court, judge, magistrate or officer taking the bail; they are to be

1 governed in the exercise of this discretion by the Constitution and  
2 by the following rules:

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

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

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

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

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

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

19 7. The citizenship status of the defendant is to be  
20 considered.

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

- 23 (1) Section 19.02 (murder);  
24 (2) Section 19.03 (capital murder);  
25 (3) Section 20.03 (kidnapping);  
26 (4) Section 20.04 (aggravated kidnapping);  
27 (5) Section 20A.03 (continuous trafficking of

- 1 persons);  
2           (6) Section 21.02 (continuous sexual abuse of young  
3 child or children);  
4           (7) Section 21.11 (indecent with a child);  
5           (8) Section 22.01(a)(1) (assault), if the offense:  
6               (A) involved family violence as defined by  
7 Section 71.004, Family Code; or  
8               (B) is punishable as a felony of the second  
9 degree under Subsection (b-2) of that section (assault of a peace  
10 officer or judge);  
11           (9) Section 22.011 (sexual assault);  
12           (10) Section 22.02 (aggravated assault);  
13           (11) Section 22.021 (aggravated sexual assault);  
14           (12) Section 22.04 (injury to a child, elderly  
15 individual, or disabled individual);  
16           (13) Section 25.072 (repeated violation of certain  
17 court orders or conditions of bond in family violence, child abuse  
18 or neglect, sexual assault or abuse, indecent assault, stalking, or  
19 trafficking case);  
20           (14) Section 25.11 (continuous violence against the  
21 family);  
22           (15) Section 29.03 (aggravated robbery); or  
23           (16) Section 38.14 (taking or attempting to take  
24 weapon from peace officer, federal special investigator, employee  
25 or official of correctional facility, parole officer, community  
26 supervision and corrections department officer, or commissioned  
27 security officer).

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

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

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

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

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

16 (2) offered:

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

19 (B) through a program approved by a court  
20 education committee.

21 Art. 17.1502. BAIL SCHEDULE; HEARING. (a) The judges of  
22 the courts trying criminal cases in a county may promulgate a  
23 standing order setting out a schedule of suggested bail amounts for  
24 any offense over which the courts have jurisdiction under Chapter  
25 4.

26 (b) A standing order promulgated in accordance with this  
27 article must require that the factors under Article 17.15 be



1 considered before a defendant's bail is set.

2 (c) A defendant who is unable to give bail in the amount  
3 required by the schedule must be given an opportunity to file with  
4 the applicable magistrate a sworn affidavit in substantially the  
5 following form:

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

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

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

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

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

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

27 (5) money owed to the defendant or to the defendant's

1 spouse;

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

4 (7) an itemized estimate of the defendant's monthly  
5 expenses;

6 (8) an estimate of the defendant's tax and legal  
7 expenses;

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

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

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

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

25 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of  
26 misdemeanor, the sheriff or other peace officer, or a jailer  
27 licensed under Chapter 1701, Occupations Code, may, whether during

1 the term of the court or in vacation, where the officer has a  
2 defendant in custody, take of the defendant a bail bond.

3 (b) Before taking a bail bond under this article, the  
4 sheriff, peace officer, or jailer shall obtain the defendant's  
5 criminal history record information through the statewide  
6 telecommunications system maintained by the Department of Public  
7 Safety. If the defendant is charged with an offense involving  
8 violence or has previously been convicted of an offense involving  
9 violence, the sheriff, officer, or jailer may not set the amount of  
10 the defendant's bail but may take of the defendant a bail bond in  
11 the amount fixed by the court. For purposes of this subsection,  
12 "offense involving violence" has the meaning assigned by Article  
13 17.15(b).

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

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

25 (b) Before taking a bail bond under this article, the  
26 sheriff, peace officer, or jailer shall obtain the defendant's  
27 criminal history record information through the statewide

1 telecommunications system maintained by the Department of Public  
2 Safety. If the defendant is charged with an offense involving  
3 violence or has previously been convicted of an offense involving  
4 violence, the sheriff, officer, or jailer may not set the amount of  
5 the defendant's bail but may take of the defendant a bail bond in  
6 the amount fixed by the court. For purposes of this subsection,  
7 "offense involving violence" has the meaning assigned by Article  
8 17.15(b).

9 SECTION 8. Section 27.005, Government Code, is amended to  
10 read as follows:

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

15 (1) within one year after the date the justice is first  
16 elected:

17 (A) ~~an~~ an 80-hour course in the performance of  
18 the justice's duties; and

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

21 (2) each following year:

22 (A) ~~a~~ a 20-hour course in the performance of  
23 the justice's duties, including not less than 10 hours of  
24 instruction regarding substantive, procedural, and evidentiary law  
25 in civil matters; and

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

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

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

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

11 (1) the number of defendants for whom bail was set,  
12 including:

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

14 (B) the number of personal bonds;

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

16 (3) the number of defendants released on bail who  
17 subsequently failed to appear or violated a condition of release;  
18 and

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

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

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

27 Sec. 72.036. BAIL FORM. (a) The office shall promulgate a

1 form to be completed each time a magistrate, judge, sheriff, peace  
2 officer, or jailer sets a defendant's bail under Chapter 17, Code of  
3 Criminal Procedure.

4 (b) The form must:

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

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

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

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

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

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

18 (1) the offender's name;

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

20 (3) the arresting law enforcement agency;

21 (4) the arrest charge, by offense code and incident  
22 number;

23 (5) whether the arrest charge is a misdemeanor or  
24 felony;

25 (6) the date of the arrest;

26 (7) for an offender released on bail, whether a  
27 warrant was issued for any subsequent failure of the offender to

1 appear in court;

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

4           (9) [~~(8)~~] the date of disposition of the case by the  
5 law enforcement agency.

6           SECTION 12. A judge or magistrate who is serving on the  
7 effective date of this Act must complete the judge's or  
8 magistrate's:

9           (1) initial training under Article 17.1501(a), Code of  
10 Criminal Procedure, as added by this Act, not later than September  
11 1, 2022; and

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

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

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