

By: Moody

H.B. No. 4517

A BILL TO BE ENTITLED

AN ACT

relating to the release of certain defendants on personal bond.

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

SECTION 1. Articles 17.03(a) and (b-2), Code of Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection (b), ~~[or]~~ (b-1), or (b-2), a magistrate shall ~~[may, in the magistrate's discretion,]~~ release a ~~[the]~~ defendant on personal bond without sureties or other security unless the magistrate enters a finding on the record that conditions of release are insufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense. This subsection does not apply to a defendant described by Article 17.032(b).

(b-2) Except as provided by Articles 15.21, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1) is charged with:

(A) an offense involving violence; or

(B) an offense for which an element of the offense involves offensive or provocative sexual contact with another; or

(2) while released on bail or community supervision for an offense described by Subdivision (1) ~~[involving violence],~~

1 is charged with committing:

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

3 (B) an offense under the following provisions of  
4 the Penal Code:

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

6 (ii) Section 22.05 (deadly conduct);

7 (iii) Section 22.07 (terroristic threat);

8 or

9 (iv) Section 42.01(a)(7) or (8) (disorderly  
10 conduct involving firearm).

11 SECTION 2. Articles 17.032(b) and (d), Code of Criminal  
12 Procedure, are amended to read as follows:

13 (b) Notwithstanding Article 17.03(b), or a bond schedule  
14 adopted or a standing order entered by a judge, a magistrate shall  
15 release a defendant on personal bond unless good cause is shown  
16 otherwise if:

17 (1) the defendant is not charged with and has not been  
18 previously convicted of a violent offense or an offense for which an  
19 element of the offense involves offensive or provocative sexual  
20 contact with another;

21 (2) the defendant is examined by the service provider  
22 that contracts with the jail to provide mental health or  
23 intellectual and developmental disability services, the local  
24 mental health authority, the local intellectual and developmental  
25 disability authority, or another qualified mental health or  
26 intellectual and developmental disability expert under Article  
27 16.22;

1 (3) the applicable expert, in a written report  
2 submitted to the magistrate under Article 16.22:

3 (A) concludes that the defendant has a mental  
4 illness or is a person with an intellectual disability and is  
5 nonetheless competent to stand trial; and

6 (B) recommends mental health treatment or  
7 intellectual and developmental disability services for the  
8 defendant, as applicable;

9 (4) the magistrate determines, in consultation with  
10 the local mental health authority or local intellectual and  
11 developmental disability authority, that appropriate  
12 community-based mental health or intellectual and developmental  
13 disability services for the defendant are available in accordance  
14 with Section 534.053 or 534.103, Health and Safety Code, or through  
15 another mental health or intellectual and developmental disability  
16 services provider; and

17 (5) the magistrate finds, after considering all the  
18 circumstances, a pretrial risk assessment, if applicable, and any  
19 other credible information provided by the attorney representing  
20 the state or the defendant, that release on personal bond would  
21 reasonably ensure the defendant's appearance in court as required  
22 and the safety of the community, law enforcement, and the victim of  
23 the alleged offense.

24 (d) In addition to a condition of release imposed under  
25 Subsection (c), the magistrate may require the defendant to comply  
26 with other conditions that are reasonably necessary to ensure the  
27 defendant's appearance in court as required and the safety of the

1 community, law enforcement, and the victim of the alleged offense.

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

7           SECTION 4. This Act takes effect September 1, 2023.