

By: Huffman, et al. S.J.R. No. 5
(Smithee, DeAyala, Louderback, Cook, Moody, et al.)

Substitute the following for S.J.R. No. 5:

By: Smithee C.S.S.J.R. No. 5

A JOINT RESOLUTION

1 proposing a constitutional amendment requiring the denial of bail
2 under certain circumstances to persons accused of certain offenses
3 punishable as a felony.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article I, Texas Constitution, is amended by
6 adding Section 11d to read as follows:

7 Sec. 11d. (a) This section applies only to a person accused
8 of committing one or more of the following offenses:

9 (1) murder;

10 (2) capital murder;

11 (3) aggravated assault if the person:

12 (A) caused serious bodily injury, as that term is
13 defined by general law, to another; or

14 (B) used a firearm, club, knife, or explosive
15 weapon, as those terms are defined by general law, during the
16 commission of the assault;

17 (4) aggravated kidnapping;

18 (5) aggravated robbery;

19 (6) aggravated sexual assault;

20 (7) indecency with a child;

21 (8) trafficking of persons; or

22 (9) continuous trafficking of persons.

23 (b) A person to whom this section applies shall be denied
24 bail pending trial if the attorney representing the state

demonstrates by clear and convincing evidence after a hearing that the granting of bail is insufficient to reasonably:

(1) prevent the person's wilful nonappearance in court; or

(2) ensure the safety of the community, law enforcement, and the victim of the alleged offense.

(c) A judge or magistrate who grants a person bail in accordance with this section shall:

(1) set bail and impose conditions of release necessary only to reasonably:

(A) prevent the person's wilful nonappearance in court; and

(B) ensure the safety of the community, law enforcement, and the victim of the alleged offense; and

(2) prepare a written order that includes findings of fact and a statement explaining the judge's or magistrate's justification for the grant and the determinations required by this section.

(d) This section may not be construed to:

(1) limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or

(2) require any testimonial evidence before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

(e) For purposes of determining whether clear and convincing evidence exists as described by this section, a judge or

1 magistrate shall consider:

2 (1) the likelihood of the person's wilful
3 nonappearance in court;

4 (2) the nature and circumstances of the alleged
5 offense;

6 (3) the safety of the community, law enforcement, and
7 the victim of the alleged offense; and

8 (4) the criminal history of the person.

9 (f) At a hearing described by this section, a person is
10 entitled to be represented by counsel.

11 SECTION 2. This proposed constitutional amendment shall be
12 submitted to the voters at an election to be held November 4, 2025.
13 The ballot shall be printed to permit voting for or against the
14 proposition: "The constitutional amendment requiring the denial of
15 bail under certain circumstances to persons accused of certain
16 offenses punishable as a felony."