

By: Riddle

H.B. No. 85

A BILL TO BE ENTITLED

AN ACT

relating to the release on bond of certain criminal defendants.

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

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND"; CASH BOND AUTHORIZED. (a) A "bail bond" is a written undertaking entered into by the defendant and the defendant's [~~his~~] sureties for the appearance of the principal therein before some court or magistrate to answer a criminal accusation; provided, however, that the defendant upon execution of such bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond, or in a lesser amount as provided by Article 17.025, in lieu of having sureties signing the same.

(b) Any cash funds deposited under this Article or Article 17.025 shall be receipted for by the officer receiving those funds. The officer shall deposit the funds in an interest-bearing account established for purposes of this subsection. Interest on the amount in the account may be retained by the county to cover the costs of administering this subsection. In addition, the county may impose a fee, not to exceed 10 percent of the amount deposited, to cover those administrative costs. The officer shall refund the amount deposited, less any amount retained under this subsection as

1 an administrative fee, [the same and shall be refunded] to the
2 defendant, or to another person to whom that amount is assigned by
3 the defendant in a signed written instrument filed with that
4 officer, [if and] when the defendant complies with the conditions
5 of the defendant's [his] bond, and upon order of the court.

6 SECTION 2. Chapter 17, Code of Criminal Procedure, is
7 amended by adding Article 17.025 to read as follows:

8 Art. 17.025. RELEASE ON BOND IN PARTIAL AMOUNT. (a) A
9 magistrate may release a defendant on bail by permitting the
10 defendant to deposit an amount of cash bond or to submit a bail bond
11 in an amount that is less than the total amount of bail set in the
12 case if the magistrate determines that requiring the defendant to
13 deposit a cash bond or to procure a bail bond in the full amount of
14 bail will impose an unreasonable hardship on the defendant.

15 (b) Only the court before whom the case is pending may
16 release a defendant under this article if the defendant is a
17 defendant described by Article 17.03(b).

18 (c) A magistrate who releases a defendant under this article
19 may impose any condition on the release that the magistrate could
20 impose if the defendant were released on personal bond.

21 SECTION 3. Article 17.03(b), Code of Criminal Procedure, is
22 amended to read as follows:

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

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

27 (A) Section 19.02 (Murder);

- 1 (B) Section 19.03 (Capital Murder);
- 2 (C) Section 19.04 (Manslaughter);
- 3 (D) Section 19.05 (Criminally Negligent
- 4 Homicide);
- 5 (E) [~~(B)~~] Section 20.04 (Aggravated Kidnapping);
- 6 (F) [~~(C)~~] Section 22.021 (Aggravated Sexual
- 7 Assault) [~~(A)~~];
- 8 ~~[(D) Section 22.03 (Deadly Assault on Law~~
- 9 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
- 10 ~~Pardons and Paroles, or Court Participant)]~~;
- 11 (G) [~~(E)~~] Section 22.04 (Injury to a Child,
- 12 Elderly Individual, or Disabled Individual);
- 13 (H) [~~(F)~~] Section 29.03 (Aggravated Robbery);
- 14 (I) [~~(G)~~] Section 30.02 (Burglary);
- 15 (J) Section 49.08 (Intoxication Manslaughter);
- 16 or
- 17 (K) [~~(H)~~] Section 71.02 (Engaging in Organized
- 18 Criminal Activity);

19 (2) is charged with a felony under Chapter 481, Health
20 and Safety Code, or Section 485.032 [~~485.033~~], Health and Safety
21 Code, punishable by imprisonment for a minimum term or by a maximum
22 fine that is more than a minimum term or maximum fine for a first
23 degree felony; or

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

1 controlled substance in the defendant's body.

2 SECTION 4. The change in law made by this Act applies only to
3 an offense committed on or after September 1, 2005. An offense
4 committed before September 1, 2005, is covered by the law in effect
5 when the offense was committed, and the former law is continued in
6 effect for that purpose. For the purposes of this section, an
7 offense was committed before September 1, 2005, if any element of
8 the offense was committed before that date.

9 SECTION 5. This Act takes effect September 1, 2005.