BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides for the detention without bond of a person accused of a felony under certain circumstances. Such detention cannot be imposed on a person accused of a misdemeanor offense. However, there have been cases in which the accused violated the bond conditions or a protective order or committed certain misdemeanor offenses endangering the safety of the victim or the community.

H.J.R. 6 proposes a constitutional amendment to authorize the denial of bail to a person who violates an emergency protective order issued by a judge or magistrate after an arrest for an offense involving family violence, or who violates an active protective order, including a temporary ex parte order, that has been served on the person.

RULEMAKING AUTHORITY

This joint resolution does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article I, Texas Constitution, by amending Section 11b and adding Section 11c, as follows:

Sec. 11b. Authorizes any person who is accused in this state of a felony or an offense involving family violence, rather than accused of a felony, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release to be denied bail pending trial if a judge or magistrate in this state determines by a preponderance of the evidence at a subsequent hearing that the person violated a condition of release related to the safety of a victim of the alleged offense or to the safety of the community. Deletes existing text providing for such authorization by a district judge at a subsequent hearing to set or reinstate bail. Makes conforming and nonsubstantive changes.

Sec. 11c. Authorizes the legislature by general law to authorize any person who violates an order for emergency protection issued by a judge or magistrate after an arrest for an offense involving family violence or who violates an active protective order rendered by a court in a family violence case, including a temporary ex parte order that has been served on the person, or who engages in conduct that constitutes an offense involving the violation of an order described by this section to be taken into custody and, pending trial or other court proceedings, to be denied release on bail if following a hearing a judge or magistrate in this state determines by a preponderance of the evidence that the person violated the order or engaged in the conduct constituting the offense.

SECTION 2. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 6, 2007. Sets forth the required language for the ballot.