

BILL ANALYSIS

H.J.R. 6
By: Straus
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law provides for detention without bond in felony cases under certain circumstances, but not in certain circumstances involving misdemeanors. However, in certain instances the accused violates the condition of a bond or a protective order or commits certain misdemeanor offenses relating to the safety of the victim or the safety to the community. HJR 6 proposes an amendment to the Texas Constitution to authorize 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

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

HJR 6 amends Section 11b, Article I, Texas Constitution, by providing that any person who is accused in this state of a felony or an offense involving family violence, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release may be denied bail pending trial on a determination by a judge or magistrate in this state, at a subsequent hearing, that probable cause exists to believe 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.

Further HJR 6 proposes a new Section 11c, Texas Constitution, and provides that the legislature by general law may provide that 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 may be taken into custody and, pending trial or other court proceedings, denied release on bail on a determination by a judge or magistrate in this state following a hearing that probable cause exists to believe the person violated the order or engaged in the conduct constituting the offense.

This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2007. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the denial of bail to a person who violates certain court orders or conditions of release in a felony or family violence case."

EFFECTIVE DATE

H.J.R. 6 requires the proposed constitutional amendment to be submitted to the voters at an election to be held on November 6, 2007, and requires the ballot to be printed to permit voting for or against the specific proposition.