

By: Pena

H.B. No. 3305

A BILL TO BE ENTITLED

AN ACT

relating to personal and monetary bail bond requests.

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

SECTION 1. Article 17.03, Code of Criminal Procedure, is amended by amending Subsections (a), (b), and (c) and adding Subsections (b-1) and (b-2) to read as follows:

(a) Except as otherwise provided by [~~Subsection (b) of~~] this article, a judge or magistrate may, in the judge's or magistrate's discretion, release the defendant on his personal bond without sureties or other security. Before authorizing a release on personal bond, the judge or magistrate must find that:

(1) the defendant:

(A) is not currently released on personal bond in connection with the commission of another offense;

(B) is not currently serving a term of community supervision, parole, or mandatory supervision;

(C) has not within the preceding 10-year period been convicted of a felony or an offense involving an assault against another person;

(D) has not within the preceding 10-year period failed to appear for court while released on bond; and

(E) has substantial family or business ties to the county or district in which the accusation is pending; and

(2) releasing the defendant on personal bond is

1 unlikely to result in harm to the victim or the public.

2 (b) Only a district judge may release on personal bond a  
3 defendant who is charged with a felony. Except as provided by  
4 Article 17.032, a district judge may not [~~Only the court before whom~~  
5 ~~the case is pending may~~] release on personal bond a defendant who[+]

6 [~~(1)~~] is charged with an offense under any of the  
7 following sections of the Penal Code:

8 (1) [~~(A)~~] Section 19.03 (Capital Murder);

9 (2) [~~(B)~~] Section 20.04 (Aggravated Kidnapping);

10 (3) Section 22.011 (Sexual Assault), if the alleged  
11 victim is younger than 14 years of age;

12 (4) [~~(C)~~] Section 22.021 (Aggravated Sexual Assault);

13 [~~(D) Section 22.03 (Deadly Assault on Law~~  
14 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~  
15 ~~Pardons and Paroles, or Court Participant);~~]

16 (5) [~~(E)~~] Section 22.04 (Injury to a Child, Elderly  
17 Individual, or Disabled Individual);

18 (6) [~~(F)~~] Section 29.03 (Aggravated Robbery);

19 (7) [~~(G)~~] Section 30.02 (Burglary); or

20 (8) [~~(H)~~] Section 71.02 (Engaging in Organized  
21 Criminal Activity). [+]

22 (b-1) Only the court before whom the case is pending may  
23 release on personal bond a defendant who:

24 (1) [~~(2)~~] is charged with a felony under Chapter 481,  
25 Health and Safety Code, or Section 485.033, Health and Safety Code,  
26 punishable by imprisonment for a minimum term or by a maximum fine  
27 that is more than a minimum term or maximum fine for a first degree

1 felony; or

2           (2) [~~3~~] does not submit to testing for the presence  
3 of a controlled substance in the defendant's body as requested by  
4 the court or magistrate under Subsection (c) of this article or  
5 submits to testing and the test shows evidence of the presence of a  
6 controlled substance in the defendant's body.

7           (b-2) The presiding judge of the district, with the approval  
8 of the commissioners court of each county in the district, shall  
9 establish a set of eligibility criteria that must be met before a  
10 defendant charged with a misdemeanor may be released on personal  
11 bond. The eligibility criteria may be more restrictive but not less  
12 restrictive than the criteria for release on personal bond  
13 described by Subsection (a).

14           (c) When setting a personal bond under this chapter, on  
15 reasonable belief by the investigating or arresting law enforcement  
16 agent, judge, or magistrate of the presence of a controlled  
17 substance in the defendant's body or on the finding of drug or  
18 alcohol abuse related to the offense for which the defendant is  
19 charged, the judge [~~court~~] or [~~a~~] magistrate shall require as a  
20 condition of personal bond that the defendant submit to testing for  
21 alcohol or a controlled substance in the defendant's body and  
22 participate in an alcohol or drug abuse treatment or education  
23 program if such a condition will serve to reasonably assure the  
24 appearance of the defendant for trial.

25           SECTION 2. Article 17.031(a), Code of Criminal Procedure,  
26 is amended to read as follows:

27           (a) Any judge or magistrate in this state may release on

1 personal bond a defendant eligible for release on personal bond  
2 under Article 17.03 [~~of this code on his personal bond~~] where the  
3 complaint and warrant for arrest does not originate in the county  
4 wherein the accused is arrested if the judge or magistrate would  
5 have had authority to release the defendant on personal bond  
6 [~~jurisdiction over the matter~~] had the complaint arisen within the  
7 county wherein the judge or magistrate presides. The personal bond  
8 may not be revoked by the judge or magistrate [~~of the court~~] issuing  
9 the warrant for arrest except for good cause shown.

10 SECTION 3. Chapter 17, Code of Criminal Procedure, is  
11 amended by adding Article 17.149 to read as follows:

12 Art. 17.149. BAIL SCHEDULE. In each county, the judges of  
13 the county courts with criminal jurisdiction shall adopt a schedule  
14 of preapproved bail amounts for all misdemeanor offenses pending in  
15 that county. In each judicial district, the judges of the district  
16 courts shall adopt a schedule of preapproved bail amounts for all  
17 felony offenses pending in that district. A defendant may secure  
18 the defendant's release from jail on the posting of the preapproved  
19 bail amount unless, after considering the factors described by  
20 Subdivisions (3), (4), and (5), Article 17.15, a judge or  
21 magistrate has entered an order modifying the acceptable bail  
22 amount for that case, in which event the defendant must post bail in  
23 the modified amount to secure release.

24 SECTION 4. This Act applies only to a request for bond  
25 submitted on or after the effective date of this Act. A request for  
26 bond submitted before the effective date of this Act is covered by  
27 the law in effect at the time the request was submitted, and the

1 former law is continued in effect for that purpose.

2 SECTION 5. This Act takes effect September 1, 2007.