

AN ACT

relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions.

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

SECTION 1. Articles 17.41(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 ~~[12]~~ years of age ~~[or younger]~~:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Prohibited Sexual Conduct); or

(3) Section 43.25 (Sexual Performance by a Child).

(b) Subject to Subsections (c) and (d), a ~~[A]~~ magistrate shall ~~[may]~~ require as a condition of bond for a defendant charged with an offense described by Subsection (a) ~~[of this article]~~ that the defendant not:

(1) directly communicate with the alleged victim of the offense; or

(2) go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged

1 victim.

2 SECTION 2. Chapter 17, Code of Criminal Procedure, is
3 amended by adding Article 17.153 to read as follows:

4 Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF
5 BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a
6 defendant charged with a felony offense under any of the following
7 provisions of the Penal Code, if committed against a child younger
8 than 14 years of age:

9 (1) Chapter 21 (Sexual Offenses);

10 (2) Section 25.02 (Prohibited Sexual Conduct); or

11 (3) Section 43.25 (Sexual Performance by a Child).

12 (b) A defendant described by Subsection (a) who violates a
13 condition of bond set under Article 17.41 and whose bail in the case
14 is revoked for the violation may be taken into custody and denied
15 release on bail pending trial if, following a hearing, a judge or
16 magistrate determines by a preponderance of the evidence that the
17 defendant violated a condition of bond related to the safety of the
18 victim of the offense or the safety of the community. If the
19 magistrate finds that the violation occurred, the magistrate may
20 revoke the defendant's bond and order that the defendant be
21 immediately returned to custody. Once the defendant is placed in
22 custody, the revocation of the defendant's bond discharges the
23 sureties on the bond, if any, from any future liability on the bond.
24 A discharge under this subsection from any future liability on the
25 bond does not discharge any surety from liability for previous
26 forfeitures on the bond.

27 SECTION 3. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 covered by the law in effect when the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense occurred before that date.

7 SECTION 4. This Act takes effect September 1, 2009.

H.B. No. 3751

President of the Senate

Speaker of the House

I certify that H.B. No. 3751 was passed by the House on May 4, 2009, by the following vote: Yeas 139, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3751 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3751 on May 31, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3751

I certify that H.B. No. 3751 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3751 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor