

By: Gallego

H.B. No. 3751

A BILL TO BE ENTITLED

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 or forfeited for the violation may be taken into custody
15 and denied release on bail pending trial if, following a hearing, a
16 judge or magistrate determines by a preponderance of the evidence
17 that the defendant violated a condition of bond related to the
18 safety of the victim of the offense or the safety of the community.

19 SECTION 3. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 covered by the law in effect when the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense occurred before that date.

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