

1-1 By: Gallego, Moody (Senate Sponsor - Shapiro) H.B. No. 3751
1-2 (In the Senate - Received from the House May 5, 2009;
1-3 May 6, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 21, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3751 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the conditions of bond for a defendant charged with
1-11 committing certain offenses against a child and to the denial of
1-12 bail pending trial with respect to certain defendants who violate
1-13 those conditions.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Articles 17.41(a) and (b), Code of Criminal
1-16 Procedure, are amended to read as follows:

1-17 (a) This article applies to a defendant charged with an
1-18 offense under any of the following provisions of the Penal Code, if
1-19 committed against a child younger than 14 [~~12~~] years of age [~~or~~
1-20 ~~younger~~]:

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

1-23 (2) Section 25.02 (Prohibited Sexual Conduct); or

1-24 (3) Section 43.25 (Sexual Performance by a Child).

1-25 (b) Subject to Subsections (c) and (d), with respect to a
1-26 defendant who is charged with an offense described by Subsection
1-27 (a), a [A] magistrate may require as a condition of bond, if an
1-28 attorney representing the state is present at the time the
1-29 magistrate sets the conditions of the defendant's bond, and shall
1-30 require as a condition of bond, if an attorney representing the
1-31 state is not present at the time the magistrate sets the conditions
1-32 of the defendant's bond, [for a defendant charged with an offense
1-33 described by Subsection (a) of this article] that the defendant
1-34 not:

1-35 (1) directly communicate with the alleged victim of
1-36 the offense; or

1-37 (2) go near a residence, school, or other location, as
1-38 specifically described in the bond, frequented by the alleged
1-39 victim.

1-40 SECTION 2. Chapter 17, Code of Criminal Procedure, is
1-41 amended by adding Article 17.153 to read as follows:

1-42 Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF
1-43 BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a
1-44 defendant charged with a felony offense under any of the following
1-45 provisions of the Penal Code, if committed against a child younger
1-46 than 14 years of age:

1-47 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
1-48 Offenses);

1-49 (2) Section 25.02 (Prohibited Sexual Conduct); or

1-50 (3) Section 43.25 (Sexual Performance by a Child).

1-51 (b) A defendant described by Subsection (a) who violates a
1-52 condition of bond set under Article 17.41 and whose bail in the case
1-53 is revoked for the violation may be taken into custody and denied
1-54 release on bail pending trial if, following a hearing, a judge or
1-55 magistrate determines by a preponderance of the evidence that the
1-56 defendant violated a condition of bond related to the safety of the
1-57 victim of the offense or the safety of the community. If the
1-58 magistrate finds that the violation occurred, the magistrate may
1-59 revoke the defendant's bond and order that the defendant be
1-60 immediately returned to custody. Once the defendant is placed in
1-61 custody, the revocation of the defendant's bond discharges the
1-62 sureties on the bond, if any, from any future liability on the bond.
1-63 A discharge under this subsection from any future liability on the

2-3 SECTION 3. The change in law made by this Act applies only
2-4 to an offense committed on or after the effective date of this Act.
2-5 An offense committed before the effective date of this Act is
2-6 covered by the law in effect when the offense was committed, and the
2-7 former law is continued in effect for that purpose. For purposes of
2-8 this section, an offense was committed before the effective date of
2-9 this Act if any element of the offense occurred before that date.

2-10 SECTION 4. This Act takes effect September 1, 2009.

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