

By: Wentworth

S.B. No. 498

A BILL TO BE ENTITLED

AN ACT

relating to the release of a criminal defendant on partial bail and to the procedures governing a cash bond.

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

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND"; CASH BOND AUTHORIZED. (a) A "bail bond" is a written undertaking entered into by the defendant and the defendant's ~~his~~ sureties for the appearance of the principal therein before some court or magistrate to answer a criminal accusation; provided, however, that the defendant upon execution of such bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond, or in a lesser amount as provided by Article 17.025, in lieu of having sureties signing the same.

(b) Any cash funds deposited under this Article or Article 17.025 shall be receipted for by the officer receiving those funds. The officer shall deposit the funds in an interest-bearing account established for purposes of this subsection. Interest on the amount in the account may be retained by the county to cover the costs of administering this subsection. In addition, the county may impose a fee, not to exceed 10 percent of the amount deposited, to cover those administrative costs. The officer shall refund the

1 amount deposited, less any amount retained under this subsection as
2 an administrative fee, [the same and shall be refunded] to the
3 defendant, or to another person to whom that amount is assigned by
4 the defendant in a signed written instrument filed with that
5 officer, [if and] when the defendant complies with the conditions
6 of the defendant's [his] bond, and upon order of the court.

7 SECTION 2. Chapter 17, Code of Criminal Procedure, is
8 amended by adding Article 17.025 to read as follows:

9 Art. 17.025. RELEASE ON BAIL IN PARTIAL AMOUNT. (a) A
10 magistrate may release a defendant on bail by permitting the
11 defendant to deposit an amount of cash bond or to submit a surety
12 bond in an amount that is less than the total amount of bail set in
13 the case if the magistrate determines that requiring the defendant
14 to deposit a cash bond or to procure a surety bond in the full amount
15 of bail will impose an unreasonable hardship on the defendant.

16 (b) Only the court before whom the case is pending may
17 release a defendant under this article if the defendant is a
18 defendant described by Article 17.03(b).

19 (c) A magistrate who releases a defendant under this article
20 may impose any conditions on the release that the magistrate could
21 impose if the defendant were released on personal bond.

22 (d) A release on bail in a partial amount is not a reduction
23 in bail for purposes of Article 17.091.

24 SECTION 3. Sections 41.258(b) and (f), Government Code, are
25 amended to read as follows:

26 (b) A court, judge, magistrate, peace officer, or other
27 officer taking a cash or surety [~~bail~~] bond for an offense other

1 than a misdemeanor punishable by fine only under Chapter 17, Code of
2 Criminal Procedure, shall require the payment of a \$15 cost by each
3 person [~~surety~~] posting the cash or surety [~~bail~~] bond, as
4 applicable, provided the cost does not exceed \$30 for all bail bonds
5 posted at that time for an individual and the cost is not required
6 on the posting of a personal [~~or cash~~] bond.

7 (f) A person [~~surety~~] paying a cost under Subsection (b) may
8 apply for and is entitled to a refund of the cost not later than the
9 181st day after the date the state declines to prosecute an
10 individual or the grand jury declines to indict an individual.

11 SECTION 4. (a) Section 103.027, Government Code, is
12 amended to conform to the amendments made to Section 103.022,
13 Government Code, by Chapter 36 (S.B. 844), Acts of the 80th
14 Legislature, Regular Session, 2007, and is further amended to read
15 as follows:

16 Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT
17 CODE. Fees and costs shall be paid or collected under the
18 Government Code as follows:

19 (1) filing a certified copy of a judicial finding of
20 fact and conclusion of law if charged by the secretary of state
21 (Sec. 51.905, Government Code) . . . \$15;

22 (2) cost paid for [~~by~~] each cash or surety [~~posting the~~
23 ~~bail~~] bond for an offense other than a misdemeanor punishable by
24 fine only under Chapter 17, Code of Criminal Procedure, for the
25 assistant [~~felony~~] prosecutor supplement fund and the fair defense
26 account (Sec. 41.258, Government Code) . . . \$15, provided the cost
27 does not exceed \$30 for all bail bonds posted at that time for an

1 individual and the cost is not required on the posting of a personal
2 [~~or cash~~] bond;

3 (3) to participate in a court proceeding in this
4 state, a nonresident attorney fee for civil legal services to the
5 indigent (Sec. 82.0361, Government Code) . . . \$250 except as
6 waived or reduced under supreme court rules for representing an
7 indigent person;

8 (4) on a party's appeal of a final decision in a
9 contested case, the cost of preparing the original or a certified
10 copy of the record of the agency proceeding, if required by the
11 agency's rule, as a court cost (Sec. 2001.177, Government Code)
12 . . . as assessed by the court, all or part of the cost of
13 preparation;

14 (5) compensation to a referee in juvenile court in
15 Wichita County taxed as costs if the judge determines the parties
16 are able to pay the costs (Sec. 54.403, Government Code) . . . as
17 determined by the judge; and

18 (6) the expense of preserving the record as a court
19 cost in Brazos County if imposed on a party by the referring court
20 or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

21 (b) Section 103.022, Government Code, as amended by Chapter
22 36 (S.B. 844), Acts of the 80th Legislature, Regular Session, 2007,
23 is repealed. Section 103.022, Government Code, as reenacted and
24 amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature,
25 Regular Session, 2007, to reorganize and renumber that section,
26 continues in effect.

27 SECTION 5. The change in law made by this Act applies only

1 to a bail bond that is executed on or after the effective date of
2 this Act. A bail bond executed before the effective date of this
3 Act is governed by the law in effect when the bail bond was
4 executed, and the former law is continued in effect for that
5 purpose.

6 SECTION 6. This Act takes effect September 1, 2009.