

1-1 By: Whitmire S.B. No. 1505
1-2 (In the Senate - Filed March 9, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 14, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 14, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1505 By: Whitmire

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

1-10 relating to the arrest and release on bail or other form of bond of
1-11 certain criminal defendants with a mental illness or with mental
1-12 retardation.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (a), Article 14.03, Code of Criminal
1-15 Procedure, is amended to read as follows:

1-16 (a) Any peace officer may arrest, without warrant:

1-17 (1) persons found in suspicious places and under
1-18 circumstances which reasonably show that such persons have been
1-19 guilty of some felony, violation of Title 9, Chapter 42, Penal Code,
1-20 breach of the peace, or offense under Section 49.02, Penal Code, or
1-21 threaten, or are about to commit some offense against the laws;

1-22 (2) persons who the peace officer has probable cause
1-23 to believe have committed an assault resulting in bodily injury to
1-24 another person and the peace officer has probable cause to believe
1-25 that there is danger of further bodily injury to that person;

1-26 (3) persons who the peace officer has probable cause
1-27 to believe have committed an offense defined by Section 25.07,
1-28 Penal Code (violation of Protective Order), or by Section 38.112,
1-29 Penal Code (violation of Protective Order issued on basis of sexual
1-30 assault), if the offense is not committed in the presence of the
1-31 peace officer;

1-32 (4) persons who the peace officer has probable cause
1-33 to believe have committed an offense involving family violence;

1-34 (5) persons who the peace officer has probable cause
1-35 to believe have prevented or interfered with an individual's
1-36 ability to place a telephone call in an emergency, as defined by
1-37 Section 42.062(d), Penal Code, if the offense is not committed in
1-38 the presence of the peace officer; ~~or~~

1-39 (6) a person who makes a statement to the peace officer
1-40 that would be admissible against the person under Article 38.21 and
1-41 establishes probable cause to believe that the person has committed
1-42 a felony; or

1-43 (7) a person who the peace officer has probable cause
1-44 to believe has violated a condition of release on bail or other form
1-45 of bond under Article 17.032 or 17.455.

1-46 SECTION 2. Article 17.032, Code of Criminal Procedure, is
1-47 amended by adding Subsection (b-1) and amending Subsections (c) and
1-48 (d) to read as follows:

1-49 (b-1) Unless good cause is shown otherwise, if the
1-50 requirements specified by Subsections (b)(2), (3), and (4) are
1-51 satisfied, the court before whom the criminal case is pending may
1-52 release on personal bond a defendant who is charged with or has been
1-53 previously convicted of a violent offense.

1-54 (c) The applicable court ~~magistrate~~, unless good cause is
1-55 shown for not requiring treatment, shall require as a condition of
1-56 release on personal bond under Subsection (b) or (b-1) ~~this~~
1-57 ~~article~~ that the defendant submit to outpatient or inpatient
1-58 mental health or mental retardation treatment as recommended by the
1-59 local mental health or mental retardation authority if the
1-60 defendant's:

1-61 (1) mental illness or mental retardation is chronic in
1-62 nature; or

1-63 (2) ability to function independently will continue to

2-1 deteriorate if the defendant is not treated.

2-2 (d) In addition to a condition of release imposed under
2-3 Subsection (c) [~~of this article~~], the applicable court [~~magistrate~~]
2-4 may require the defendant to comply with other conditions that are
2-5 reasonably necessary to protect the community.

2-6 SECTION 3. Chapter 17, Code of Criminal Procedure, is
2-7 amended by adding Article 17.455 to read as follows:

2-8 Art. 17.455. CONDITIONS REQUIRING SUBMISSION TO MENTAL
2-9 HEALTH OR MENTAL RETARDATION TREATMENT. (a) A magistrate may
2-10 require as a condition of a defendant's release on bond, other than
2-11 a release on personal bond, that the defendant submit to outpatient
2-12 or inpatient mental health or mental retardation treatment, as
2-13 recommended by the applicable local mental health or mental
2-14 retardation authority, if:

2-15 (1) the requirements of Articles 17.032(b)(2),
2-16 (b)(3), and (b)(4) are satisfied with respect to the defendant in
2-17 the same manner as if the defendant were being released on personal
2-18 bond; and

2-19 (2) the defendant's mental illness or mental
2-20 retardation:

2-21 (A) is chronic; or

2-22 (B) will continue to interfere with the
2-23 defendant's ability to function independently if the defendant does
2-24 not receive treatment.

2-25 (b) An order for treatment under this article may require
2-26 the defendant to receive services and to reside at a local mental
2-27 health facility or residential care facility, as applicable, during
2-28 the period of the defendant's release.

2-29 SECTION 4. The change in law made by this Act in amending
2-30 Article 17.032, Code of Criminal Procedure, and adding Article
2-31 17.455, Code of Criminal Procedure, applies only to a defendant's
2-32 release on bail or other form of bond on or after the effective date
2-33 of this Act. A defendant's release on bail or other form of bond
2-34 before the effective date of this Act is governed by the law in
2-35 effect when the defendant was released, and the former law is
2-36 continued in effect for that purpose.

2-37 SECTION 5. This Act takes effect September 1, 2009.

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