

SENATE AMENDMENTS

2nd Printing

By: Gallego, Moody

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 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.

ADOPTED

MAY 26 2009

Atty. Gen.
Secretary of the Senate

By: *Frederic R. Jones*

H.B. No. 3751

Substitute the following for H.B. No. 3751:

By: *John Whit*

C.S. H.B. No. 3751

A BILL TO BE ENTITLED

AN ACT

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3 committing certain offenses against a child and to the denial of
4 bail pending trial with respect to certain defendants who violate
5 those conditions.

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

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

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

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

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

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

17 (b) Subject to Subsections (c) and (d), with respect to a
18 defendant who is charged with an offense described by Subsection
19 (a), a [A] magistrate may require as a condition of bond, if an
20 attorney representing the state is present at the time the
21 magistrate sets the conditions of the defendant's bond, and shall
22 require as a condition of bond, if an attorney representing the
23 state is not present at the time the magistrate sets the conditions
24 of the defendant's bond, [for a defendant charged with an offense

1 ~~described by Subsection (a) of this article]~~ that the defendant
2 not:

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

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

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

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

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

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

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

19 (b) A defendant described by Subsection (a) who violates a
20 condition of bond set under Article 17.41 and whose bail in the case
21 is revoked for the violation may be taken into custody and denied
22 release on bail pending trial if, following a hearing, a judge or
23 magistrate determines by a preponderance of the evidence that the
24 defendant violated a condition of bond related to the safety of the
25 victim of the offense or the safety of the community. If the
26 magistrate finds that the violation occurred, the magistrate may
27 revoke the defendant's bond and order that the defendant be

1 immediately returned to custody. Once the defendant is placed in
2 custody, the revocation of the defendant's bond discharges the
3 sureties on the bond, if any, from any future liability on the bond.
4 A discharge under this subsection from any future liability on the
5 bond does not discharge any surety from liability for previous
6 forfeitures on the bond.

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

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, SD, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 16, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM, TMP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **As Engrossed**

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Source Agencies:

LBB Staff: JOB, LM, TMP

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

April 16, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TMP

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1 of 1

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3751 by Gallego (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.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

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LBB Staff: JOB, TMP