

**House Bill 3751**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 [42] 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 victim.

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

SENATE VERSION

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 [42] 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), with respect to a defendant who is charged with an offense described by Subsection (a), a [A] magistrate may require as a condition of bond, if an attorney representing the state is present at the time the magistrate sets the conditions of the defendant's bond, and shall require as a condition of bond, if an attorney representing the state is not present at the time the magistrate sets the conditions of the defendant's 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 victim.

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

CONFERENCE

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HOUSE VERSION

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

(1) Chapter 21 (Sexual Offenses);

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

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

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

SENATE VERSION

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

(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) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

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

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

SENATE VERSION

Same as House version.

Same as House version.

CONFERENCE