

By: Scott, et al.

H.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to the taking of a defendant's bail bond by county jailers.

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

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.025 to read as follows:

Art. 17.025. OFFICERS TAKING BAIL BOND. A jailer licensed under Chapter 1701, Occupations Code, is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under this chapter.

SECTION 2. Article 17.05, Code of Criminal Procedure, is amended to read as follows:

Art. 17.05. WHEN A BAIL BOND IS GIVEN. A bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant by a peace officer or jailer if authorized by Article 17.20, 17.21, or 17.22.

SECTION 3. Article 17.20, Code of Criminal Procedure, is amended to read as follows:

Art. 17.20. BAIL IN MISDEMEANOR. In cases of misdemeanor, the [The] sheriff[7] or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code [in cases of misdemeanor], may, whether during the term of the court or in vacation, where the officer [he] has a defendant in custody, take of the defendant a bail bond.

1 SECTION 4. Article 17.21, Code of Criminal Procedure, is  
2 amended to read as follows:

3 Art. 17.21. BAIL IN FELONY. In cases of felony, when the  
4 accused is in custody of the sheriff or other [~~peace~~] officer, and  
5 the court before which the prosecution is pending is in session in  
6 the county where the accused is in custody, the court shall fix the  
7 amount of bail, if it is aailable case and determine if the  
8 accused is eligible for a personal bond; and the sheriff[~~7~~] or other  
9 peace officer, unless it be the police of a city, or a jailer  
10 licensed under Chapter 1701, Occupations Code, is authorized to  
11 take a bail bond of the accused in the amount as fixed by the court,  
12 to be approved by such officer taking the same, and will thereupon  
13 discharge the accused from custody. The [~~It shall not be necessary~~  
14 ~~for the~~] defendant and the defendant's [~~or his~~] sureties are not  
15 required to appear in court.

16 SECTION 5. Article 17.22, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 17.22. MAY TAKE BAIL IN FELONY. In a felony case, if  
19 the court before which the same is pending is not in session in the  
20 county where the defendant is in custody, the sheriff[~~7~~] or other  
21 peace officer, or a jailer licensed under Chapter 1701, Occupations  
22 Code, who has the defendant [~~having him~~] in custody[~~7~~] may take the  
23 defendant's [~~his~~] bail bond in such amount as may have been fixed by  
24 the court or magistrate, or if no amount has been fixed, then in  
25 such amount as such officer may consider reasonable.

26 SECTION 6. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2011.