

1-1 By: Scott, et al. (Senate Sponsor - Hinojosa) H.B. No. 1070
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 27, 2011, read first time and referred to Committee on
1-4 Administration; May 20, 2011, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 20, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the taking of a defendant's bail bond by county jailers.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 17, Code of Criminal Procedure, is
1-11 amended by adding Article 17.025 to read as follows:

1-12 Art. 17.025. OFFICERS TAKING BAIL BOND. A jailer licensed
1-13 under Chapter 1701, Occupations Code, is considered to be an
1-14 officer for the purposes of taking a bail bond and discharging any
1-15 other related powers and duties under this chapter.

1-16 SECTION 2. Article 17.05, Code of Criminal Procedure, is
1-17 amended to read as follows:

1-18 Art. 17.05. WHEN A BAIL BOND IS GIVEN. A bail bond is
1-19 entered into either before a magistrate, upon an examination of a
1-20 criminal accusation, or before a judge upon an application under
1-21 habeas corpus; or it is taken from the defendant by a peace officer
1-22 or jailer if authorized by Article 17.20, 17.21, or 17.22.

1-23 SECTION 3. Article 17.20, Code of Criminal Procedure, is
1-24 amended to read as follows:

1-25 Art. 17.20. BAIL IN MISDEMEANOR. In cases of misdemeanor,
1-26 the [The] sheriff[7] or other peace officer, or a jailer licensed
1-27 under Chapter 1701, Occupations Code [in cases of misdemeanor],
1-28 may, whether during the term of the court or in vacation, where the
1-29 officer [he] has a defendant in custody, take of the defendant a
1-30 bail bond.

1-31 SECTION 4. Article 17.21, Code of Criminal Procedure, is
1-32 amended to read as follows:

1-33 Art. 17.21. BAIL IN FELONY. In cases of felony, when the
1-34 accused is in custody of the sheriff or other [~~peace~~] officer, and
1-35 the court before which the prosecution is pending is in session in
1-36 the county where the accused is in custody, the court shall fix the
1-37 amount of bail, if it is aailable case and determine if the
1-38 accused is eligible for a personal bond; and the sheriff[7] or other
1-39 peace officer, unless it be the police of a city, or a jailer
1-40 licensed under Chapter 1701, Occupations Code, is authorized to
1-41 take a bail bond of the accused in the amount as fixed by the court,
1-42 to be approved by such officer taking the same, and will thereupon
1-43 discharge the accused from custody. The [It shall not be necessary
1-44 for the] defendant and the defendant's [or his] sureties are not
1-45 required to appear in court.

1-46 SECTION 5. Article 17.22, Code of Criminal Procedure, is
1-47 amended to read as follows:

1-48 Art. 17.22. MAY TAKE BAIL IN FELONY. In a felony case, if
1-49 the court before which the same is pending is not in session in the
1-50 county where the defendant is in custody, the sheriff[7] or other
1-51 peace officer, or a jailer licensed under Chapter 1701, Occupations
1-52 Code, who has the defendant [~~having him~~] in custody[7] may take the
1-53 defendant's [~~his~~] bail bond in such amount as may have been fixed by
1-54 the court or magistrate, or if no amount has been fixed, then in
1-55 such amount as such officer may consider reasonable.

1-56 SECTION 6. This Act takes effect immediately if it receives
1-57 a vote of two-thirds of all the members elected to each house, as
1-58 provided by Section 39, Article III, Texas Constitution. If this
1-59 Act does not receive the vote necessary for immediate effect, this
1-60 Act takes effect September 1, 2011.

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