

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Riddle

H.B. No. 1173

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the release on bond of certain persons arrested for a  
3 misdemeanor without a warrant in certain counties.

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

5 SECTION 1. Article 17.033(a), Code of Criminal Procedure,  
6 is amended to read as follows:

7 (a) Except as provided by Subsection (c), a person who is  
8 arrested without a warrant and who is detained in jail must be  
9 released on bond, in an amount not to exceed \$5,000, not later than  
10 the 24th hour after the person's arrest, or the 36th hour after the  
11 person's arrest in a county with a population of three million or  
12 more, if the person was arrested for a misdemeanor and a magistrate  
13 has not determined whether probable cause exists to believe that  
14 the person committed the offense. If the person is unable to obtain  
15 a surety for the bond or unable to deposit money in the amount of the  
16 bond, the person must be released on personal bond.

17 SECTION 2. The change in law made by this Act applies only  
18 to a person arrested for an offense committed on or after the  
19 effective date of this Act. A person arrested for an offense  
20 committed before the effective date of this Act is governed by the  
21 law in effect on the date the offense was committed, and the former  
22 law is continued in effect for that purpose. For purposes of this  
23 section, an offense was committed before the effective date of this  
24 Act if any element of the offense occurred before that date.

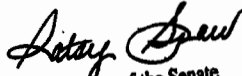
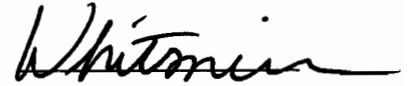
1 SECTION 3. This Act takes effect September 1, 2011.

**ADOPTED**

31-0  
MAY 23 2011

FLOOR AMENDMENT NO. 1

BY:

  
Secretary of the Senate

1 Amend H.B. No. 1173 (senate committee printing) as follows:

2 (1) Strike SECTION 1 of the bill (page 1, lines 11-22) and  
3 substitute the following:

4 SECTION 1. Article 17.033, Code of Criminal Procedure, is  
5 amended by adding Subsections (a-1) and (e) and amending  
6 Subsections (c) and (d) to read as follows:

7 (a-1) Notwithstanding Subsection (a) and except as  
8 provided by Subsection (c), a person who, in a county with a  
9 population of three million or more, is arrested without a  
10 warrant and who is detained in jail must be released on bond, in  
11 an amount not to exceed \$5,000, not later than the 36th hour  
12 after the person's arrest if the person was arrested for a  
13 misdemeanor and a magistrate has not determined whether probable  
14 cause exists to believe that the person committed the offense.

15 (c) On the filing of an application by the attorney  
16 representing the state, a magistrate may postpone the release of  
17 a person under Subsection (a), (a-1), or (b) for not more than  
18 72 hours after the person's arrest. An application filed under  
19 this subsection must state the reason a magistrate has not  
20 determined whether probable cause exists to believe that the  
21 person committed the offense for which the person was arrested.

22 (d) The time limits imposed by Subsections (a), (a-1), and  
23 (b) do not apply to a person arrested without a warrant who is  
24 taken to a hospital, clinic, or other medical facility before  
25 being taken before a magistrate under Article 15.17. For a  
26 person described by this subsection, the time limits imposed by  
27 Subsections (a), (a-1), and (b) begin to run at the time, as  
28 documented in the records of the hospital, clinic, or other  
29 medical facility, that a physician or other medical professional

1 releases the person from the hospital, clinic, or other medical  
2 facility.

3 (e) Subsection (a-1) and this subsection expire on  
4 September 1, 2013.

5 (2) In SECTION 2 of the bill (page 1, line 23), between  
6 "by this Act" and "applies", insert "in amending Article 17.033,  
7 Code of Criminal Procedure,".

8 (3) Add the following appropriately numbered SECTION to  
9 the bill and renumber subsequent SECTIONS of the bill  
10 accordingly:

11 SECTION \_\_\_\_ . Chapter 17, Code of Criminal Procedure, is  
12 amended by adding Article 17.0331 to read as follows:

13 Art. 17.0331. IMPACT STUDY. (a) This article applies  
14 only to a county with a population of three million or more.

15 (b) Each county to which this article applies shall  
16 conduct an impact study to determine the effect of Article  
17 17.033(a-1) on the county's ability to control and process the  
18 county's misdemeanor caseload, including a specific assessment  
19 of the effect of that subsection on:

20 (1) the average number of hours a person who is  
21 arrested for a misdemeanor is detained in jail before being  
22 released on bond;

23 (2) bonding practices, including the number of  
24 persons released on personal bond;

25 (3) the inmate population in a county jail and in a  
26 each municipal jail located in the county;

27 (4) the number of arrests for misdemeanor offenses;

28 (5) public safety;

29 (6) costs to the criminal justice system; and

30 (7) the number of applications filed by the attorney  
31 representing the state under Article 17.033(c).

1       (c) The county shall also determine whether a more cost-  
2 effective method of controlling and processing misdemeanor  
3 caseloads exists than an extension of the period for which a  
4 person may be detained after a misdemeanor arrest.

5       (d) Not later than October 15, 2012, the county must file  
6 the impact study with:

7           (1) the commissioners court of the county;

8           (2) the Senate Committee on Criminal Justice;

9           (3) the Senate Committee on Jurisprudence; and

10          (4) the House Criminal Jurisprudence Committee.

11       (e) The county shall make the results of the impact study  
12 available to the public.

13       (f) This article expires on September 1, 2013.

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

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

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

**IN RE: HB1173** by Riddle (Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to increase the number of hours from 24 hours to 36 hours after a person is arrested for a misdemeanor without a warrant and who is jailed in a county with a population of three million before the person can be released on bond. The bill would authorize a magistrate to postpone the release under certain circumstances as defined by the provisions of the bill.

The bill would add Article 17.0331 to require a county with a population of three million or more to conduct an impact study to determine the effect of Article 17.033 (a-1) on the county's ability to control and process the county's misdemeanor caseload, including specific criteria, and to file the study not later than October 15, 2012. This article would expire September 1, 2013.

**Local Government Impact**

Harris County reported that the county has difficulty meeting the 24-hour probable cause hearing deadline in some cases, generally due to the computers of law enforcement agencies being down or a large volume of traffic through the county systems which slows the necessary preparation of paperwork. Therefore, the bill is anticipated to save the county some time and effort for the extension to 36 hours. In addition, the Harris County District Clerk, District Attorney, and other impacted offices would likely experience a cost savings by a reduced number of extension requests that would otherwise have to be prepared and recorded.

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 409 Commission on Jail Standards

**LBB Staff:** JOB, ESi, TP

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 13, 2011**

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

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

**IN RE: HB1173** by Riddle (Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to increase the number of hours from 24 hours to 36 hours after a person is arrested for a misdemeanor without a warrant and who is jailed in a county with a population of three million before the person can be released on bond.

**Local Government Impact**

Harris County reported that the county has difficulty meeting the 24-hour probable cause hearing deadline in some cases, generally due to the computers of law enforcement agencies being down or a large volume of traffic through the county systems which slows the necessary preparation of paperwork. Therefore, the bill is anticipated to save the county some time and effort for the extension to 36 hours. In addition, the Harris County District Clerk, District Attorney, and other impacted offices would likely experience a cost savings by a reduced number of extension requests that would otherwise have to be prepared and recorded.

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 409 Commission on Jail Standards

**LBB Staff:** JOB, ESi, TP

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**March 11, 2011**

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

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

**IN RE: HB1173** by Riddle (Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure to increase the number of hours from 24 hours to 36 hours after a person is arrested for a misdemeanor without a warrant and who is jailed in a county with a population of three million before the person can be released on bond.

**Local Government Impact**

Harris County reported that the county has difficulty meeting the 24-hour probable cause hearing deadline in some cases, generally due to the computers of law enforcement agencies being down or a large volume of traffic through the county systems which slows the necessary preparation of paperwork. Therefore, the bill is anticipated to save the county some time and effort for the extension to 36 hours. In addition, the Harris County District Clerk, District Attorney, and other impacted offices would likely experience a cost savings by a reduced number of extension requests that would otherwise have to be prepared and recorded.

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 409 Commission on Jail Standards

**LBB Staff:** JOB, ESi, TP