

BILL ANALYSIS

C.S.H.J.R. 39
By: Burkett
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under the Texas Constitution, a judge has the discretion to deny bail to a defendant accused of certain violent or sexual crimes committed while the defendant is under the supervision of a criminal justice agency of the state or political subdivision of the state for a prior felony. Certain provisions of current law echo this treatment of such crimes as special cases. For example, a judge or magistrate is required to provide reasonable notice of a proposed bail reduction to an attorney representing the state before the judge or magistrate can reduce the amount of bail set for a defendant charged with certain violent or sexual crimes. C.S.H.J.R. 39 seeks to add to the pattern of consequences for the commission of violent or sexual offenses by authorizing the denial of release on bail pending trial of a person charged with a subsequent violent or sexual offense.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 39 proposes an amendment to the Texas Constitution to authorize the denial of release on bail pending trial of a person taken into custody for committing a violent offense or sexual offense if a judge or magistrate, following a hearing, determines that the person has been previously convicted of a violent offense or sexual offense.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 5, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 39 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 11a, Article I, Texas Constitution, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Notwithstanding Subsection (a) of this

HOUSE COMMITTEE SUBSTITUTE

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83R 23392

13.107.997

Substitute Document Number: 83R 19653

section, a person taken into custody for committing a violent offense or sexual offense shall be denied release on bail pending trial if a judge or magistrate, following a hearing, determines that the person has been previously convicted of a violent offense or sexual offense.

(c) In this section:

(1) "Violent offense" means:

(A) murder;

(B) aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault;

(C) aggravated kidnapping; or

(D) aggravated robbery.

(2) "Sexual offense" means:

(A) aggravated sexual assault;

(B) sexual assault; or

(C) indecency with a child.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment denying bail to certain persons charged with a violent or sexual offense after having been previously convicted of a violent or sexual offense."

section, a person taken into custody for committing a violent offense or sexual offense may be denied release on bail pending trial if a judge or magistrate, following a hearing, determines that the person has been previously convicted of a violent offense or sexual offense.

(c) In this section:

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(C) indecency with a child.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the denial of bail to certain persons charged with a violent or sexual offense after having been previously convicted of a violent or sexual offense."