

By: Ellis

S.B. No. 1690

A BILL TO BE ENTITLED

AN ACT

relating to the release of a criminal defendant on partial bail and to the procedures governing a cash bond.

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

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND"; CASH BOND AUTHORIZED. (a) A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond, or in a lesser amount as provided by Article 17.026, in lieu of having sureties signing the same.

(b) Any cash funds deposited under this article or Article 17.026 shall be receipted for by the officer receiving those [the] funds. The officer shall deposit the funds in an interest-bearing account established for purposes of this subsection. Interest on the amount in the account may be retained by the county to cover the costs of administering this subsection. In addition, the county may impose a fee, not to exceed 10 percent of the amount deposited, to cover those administrative costs.

1 (c) After [~~and, on order of the court, be refunded, after~~]
2 the defendant complies with the conditions of the defendant's bond
3 and on order of the court, the officer shall refund the amount
4 deposited, less any amount retained under Subsection (b) as an
5 administrative fee, to:

6 (1) any person in the name of whom a receipt was
7 issued, in the amount reflected on the face of the receipt,
8 including the defendant if a receipt was issued to the defendant; or

9 (2) the defendant, if no other person is able to
10 produce a receipt for the funds.

11 SECTION 2. Chapter 17, Code of Criminal Procedure, is
12 amended by adding Article 17.026 to read as follows:

13 Art. 17.026. RELEASE ON BAIL IN PARTIAL AMOUNT. (a) A
14 magistrate may release a defendant on bail by permitting the
15 defendant to deposit an amount of cash bond or to submit a surety
16 bond in an amount that is less than the total amount of bail set in
17 the case if the magistrate determines that requiring the defendant
18 to deposit a cash bond or to procure a surety bond in the full amount
19 of bail will impose an unreasonable hardship on the defendant.

20 (b) Only the court before whom the case is pending may
21 release a defendant under this article if the defendant is a
22 defendant described by Article [17.03\(b\)](#).

23 (c) A magistrate who releases a defendant under this article
24 may impose any conditions on the release that the magistrate could
25 impose if the defendant were released on personal bond.

26 (d) A release on bail in a partial amount is not a reduction
27 in bail for purposes of Article [17.091](#).

1 SECTION 3. Sections 41.258(b) and (f), Government Code, are
2 amended to read as follows:

3 (b) A court, judge, magistrate, peace officer, or other
4 officer taking a cash or surety [~~bail~~] bond for an offense other
5 than a misdemeanor punishable by fine only under Chapter 17, Code of
6 Criminal Procedure, shall require the payment of a \$15 cost by each
7 person [~~surety~~] posting the cash or surety [~~bail~~] bond, as
8 applicable, provided the cost does not exceed \$30 for all bail bonds
9 posted at that time for an individual and the cost is not required
10 on the posting of a personal [~~or cash~~] bond.

11 (f) A person [~~surety~~] paying a cost under Subsection (b) may
12 apply for and is entitled to a refund of the cost not later than the
13 181st day after the date the state declines to prosecute an
14 individual or the grand jury declines to indict an individual.

15 SECTION 4. Section 103.027(a), Government Code, is amended
16 to read as follows:

17 (a) Fees and costs shall be paid or collected under the
18 Government Code as follows:

19 (1) filing a certified copy of a judicial finding of
20 fact and conclusion of law if charged by the secretary of state
21 (Sec. 51.905, Government Code) . . . \$15;

22 (2) cost paid for [~~by~~] each cash or surety [~~posting the~~
23 ~~bail~~] bond for an offense other than a misdemeanor punishable by
24 fine only under Chapter 17, Code of Criminal Procedure, for the
25 assistant prosecutor supplement fund and the fair defense account
26 (Sec. 41.258, Government Code) . . . \$15, provided the cost does
27 not exceed \$30 for all bail bonds posted at that time for an

1 individual and the cost is not required on the posting of a personal
2 [~~or cash~~] bond;

3 (3) to participate in a court proceeding in this
4 state, a nonresident attorney fee (Sec. 82.0361, Government Code)
5 . . . \$250 except as waived or reduced under supreme court rules for
6 representing an indigent person; and

7 (4) on a party's appeal of a final decision in a
8 contested case, the cost of preparing the original or a certified
9 copy of the record of the agency proceeding, if required by the
10 agency's rule, as a court cost (Sec. 2001.177, Government Code)
11 . . . as assessed by the court, all or part of the cost of
12 preparation.

13 SECTION 5. The change in law made by this Act applies only
14 to a bail bond that is executed on or after the effective date of
15 this Act. A bail bond executed before the effective date of this
16 Act is governed by the law in effect when the bail bond was
17 executed, and the former law is continued in effect for that
18 purpose.

19 SECTION 6. This Act takes effect September 1, 2015.