86R11821 ADM-D

By:  Reynolds H.B. No. 2972

A BILL TO BE ENTITLED

AN ACT

relating to the pretrial release of a defendant.

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

SECTION 1.  Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.027 and 17.028 to read as follows:

Art. 17.027.  PRETRIAL RISK ASSESSMENT. (a) A magistrate considering the release on bail of a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense shall use the results of a pretrial risk assessment of the defendant in making a pretrial release decision under Article 17.028.

(b)  The risk assessment must be conducted using an instrument that:

(1)  is objective, validated for its intended use, and standardized;

(2)  is based on an analysis of empirical data; and

(3)  considers only risk factors relevant to the risk of:

(A)  a defendant failing to appear in court as required; and

(B)  danger to the community or the victim of the alleged offense as a result of the defendant's pretrial release.

(c)  The results of the risk assessment must be provided to the magistrate without unnecessary delay but not later than 48 hours after the defendant's arrest.

Art. 17.028.  PRETRIAL RELEASE DECISION. (a) Without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order, after considering all circumstances, the results of the pretrial risk assessment conducted under Article 17.027, and any credible information provided by the defendant or the attorney representing the state, that the defendant be:

(1)  released on personal bond without conditions;

(2)  released on personal bond with any condition the magistrate determines necessary;

(3)  released on a monetary bail bond without conditions;

(4)  released on a monetary bail bond with any condition the magistrate determines necessary; or

(5)  denied pretrial release in accordance with this chapter.

(b)  In making a pretrial release decision under this article, the magistrate shall impose, as applicable, the least restrictive conditions and the minimum amount or type of bail necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(c)  A defendant charged with only one or more nonviolent offenses shall be released on personal bond under Subsection (a) unless the magistrate determines by clear and convincing evidence that release on personal bond with or without conditions is insufficient to reasonably ensure the defendant's appearance in court and the safety of the community and victim as described by Subsection (b).

(d)  A magistrate who denies a defendant's pretrial release on personal bond shall, as soon as practicable but not later than 24 hours after denying the release on personal bond, issue a written order of denial that includes findings of fact and a statement of the magistrate's reasons for denying the release on personal bond.

(e)  A magistrate may not require a defendant to provide a monetary bail bond for the sole purpose of preventing the defendant's pretrial release.

SECTION 2.  The change in law made by this Act applies only to a person who is arrested on or after January 1, 2020. A person arrested before January 1, 2020, is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.