

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

1 hours after the defendant's arrest.

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

9 (1) released on personal bond without conditions;

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

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

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

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

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

24 (c) A defendant charged with only one or more nonviolent  
25 offenses shall be released on personal bond under Subsection (a)  
26 unless the magistrate determines by clear and convincing evidence  
27 that release on personal bond with or without conditions is

1 insufficient to reasonably ensure the defendant's appearance in  
2 court and the safety of the community and victim as described by  
3 Subsection (b).

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

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

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

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