

By: Martinez

H.B. No. 3925

A BILL TO BE ENTITLED

1 AN ACT

2 relating to rules for fixing the amount of bail and to the release  
3 of certain defendants on a bail bond or personal bond.

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

5 SECTION 1. Article 17.03(b), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (b) Only the court before whom the case is pending may  
8 release on personal bond a defendant who:

9 (1) is charged with an offense under the following  
10 sections of the Penal Code:

11 (A) Section 19.03 (Capital Murder);

12 (B) Section 20.04 (Aggravated Kidnapping);

13 (C) Section 22.01 if punishable under Subsection  
14 (b)(1) of that section (Assault);

15 (D) Section 22.02 if punishable under Subsection  
16 (b)(1) or (2) of that section (Aggravated Assault);

17 (E) Section 22.021 (Aggravated Sexual Assault);

18 [~~(D) Section 22.03 (Deadly Assault on Law~~  
19 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~  
20 ~~Pardons and Paroles, or Court Participant);]~~

21 (F) [~~(E)~~] Section 22.04 (Injury to a Child,  
22 Elderly Individual, or Disabled Individual);

23 (G) [~~(F)~~] Section 29.03 (Aggravated Robbery);

24 (H) [~~(G)~~] Section 30.02 (Burglary);

1                    (I) [~~(H)~~] Section 71.02 (Engaging in Organized  
2 Criminal Activity);

3                    (J) [~~(I)~~] Section 21.02 (Continuous Sexual Abuse  
4 of Young Child or Children); or

5                    (K) [~~(J)~~] Section 20A.03 (Continuous Trafficking  
6 of Persons);

7                    (2) is charged with a felony under Chapter 481, Health  
8 and Safety Code, or Section 485.033, Health and Safety Code,  
9 punishable by imprisonment for a minimum term or by a maximum fine  
10 that is more than a minimum term or maximum fine for a first degree  
11 felony; ~~or~~

12                    (3) is charged with an offense that involves  
13 possession of a controlled substance under Chapter 481, Health and  
14 Safety Code, and is punishable as a felony;

15                    (4) does not submit to testing for the presence of a  
16 controlled substance in the defendant's body as requested by the  
17 court or magistrate under Subsection (c) of this article or submits  
18 to testing and the test shows evidence of the presence of a  
19 controlled substance in the defendant's body;

20                    (5) is charged with any offense in which there is an  
21 identifiable victim;

22                    (6) is charged with any offense involving the use of a  
23 deadly weapon as defined by Section 1.07, Penal Code;

24                    (7) is currently charged with multiple offenses,  
25 regardless of whether the offenses are pending before the same  
26 court or consist of multiple courts;

27                    (8) is charged with, or in the preceding five years was

1 charged with, an offense under Section 38.06, Penal Code;

2 (9) was convicted of any felony offense in the  
3 preceding three years or any misdemeanor offense in the preceding  
4 year;

5 (10) has been convicted of an offense under Section  
6 22.011 or 22.021, Penal Code, that resulted in serious bodily  
7 injury to a child;

8 (11) is charged with committing any offense while  
9 released on bail for another offense; or

10 (12) in the preceding two years, has failed to appear  
11 after being released on personal bond.

12 SECTION 2. Article 17.15, Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. The amount of  
15 bail to be required in any case is to be regulated by the court,  
16 judge, magistrate or officer taking the bail; they are to be  
17 governed in the exercise of this discretion by the Constitution and  
18 by the following rules:

19 1. The bail shall be sufficiently high to give reasonable  
20 assurance that the undertaking will be complied with.

21 2. The power to require bail is not to be so used as to make  
22 it an instrument of oppression.

23 3. The nature of the offense and the circumstances under  
24 which it was committed are to be considered.

25 4. The ability to make bail is to be regarded, and proof may  
26 be taken upon this point.

27 5. The future safety of a victim of the alleged offense and

1 the community shall be considered.

2 6. The criminal history of the defendant shall be  
3 considered.

4 SECTION 3. Chapter 17, Code of Criminal Procedure, is  
5 amended by adding Article 17.1501 to read as follows:

6 Art. 17.1501. BAIL SCHEDULE; RELEASE OF DEFENDANT. (a) The  
7 judges of the courts trying criminal cases in a county may  
8 promulgate a standing order setting out a schedule of suggested  
9 bail amounts for any offense over which the courts have  
10 jurisdiction under Chapter 4.

11 (b) A defendant who is charged with an offense for which a  
12 bail schedule has been established under Subsection (a) may waive  
13 the defendant's right to appear before a magistrate under Article  
14 15.17 and be released from custody on giving bail in the amount  
15 required by the schedule.

16 (c) A defendant who is unable to give bail in the amount  
17 required by the schedule may file with the applicable magistrate a  
18 sworn affidavit declaring the maximum amount that the defendant  
19 would be able to pay or provide as security within 48 hours of  
20 arrest for purposes of obtaining a bail bond. The affidavit must  
21 set out sufficient facts to clearly establish that amount, given  
22 the totality of the defendant's circumstances.

23 (d) A defendant who files an affidavit under Subsection (c)  
24 is entitled to a hearing before the magistrate on the bail amount.  
25 The hearing must be held not later than 48 hours after the charges  
26 were filed against the defendant or 48 hours after the defendant was  
27 arrested, whichever is later. At the hearing, the magistrate shall

1 consider the facts stated in the affidavit and the rules  
2 established by Article 17.15 and set the defendant's bail. The  
3 magistrate shall issue oral or written findings of fact supporting  
4 the decision.

5 (e) A defendant who has not given bail before the fourth  
6 business day after the date bail is set under this article shall be  
7 taken before the court before whom the case is pending for a hearing  
8 to reconsider the bail amount. At a hearing under this subsection,  
9 the court may adjust the bail, keep the bail as previously set, or  
10 impose any additional conditions of release on bond the court  
11 considers necessary.

12 SECTION 4. The changes in law made by this Act apply only to  
13 a person who is arrested on or after the effective date of this Act.  
14 A person arrested before the effective date of this Act is governed  
15 by the law in effect on the date the person was arrested, and the  
16 former law is continued in effect for that purpose.

17 SECTION 5. This Act takes effect September 1, 2019.