

By: Coleman

H.B. No. 4571

A BILL TO BE ENTITLED

AN ACT

relating to criminal justice.

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

ARTICLE 1. BAIL AND PRETRIAL RELEASE

SECTION 1.01. Article 17.03, Code of Criminal Procedure, is amended by amending Subsections (a) and (c) and adding Subsection (b-2) to read as follows:

(a) Except as provided by Subsection (b), ~~or~~ (b-1), or (b-2), a magistrate may, in the magistrate's discretion, release the defendant on personal bond without sureties or other security.

(b-2) Notwithstanding any other law, a magistrate shall release on personal bond a defendant who is not charged with and has not been previously convicted of a violent offense unless the magistrate finds good cause to justify not releasing the defendant on personal bond.

(c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate may ~~shall~~ require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will

1 serve to reasonably assure the appearance of the defendant for  
2 trial.

3 SECTION 1.02. Articles 17.033(a), (b), and (c), Code of  
4 Criminal Procedure, are amended to read as follows:

5 (a) Except as provided by Subsection (c), a person who is  
6 arrested without a warrant and who is detained in jail must be  
7 released on personal bond~~[, in an amount not to exceed \$5,000,]~~ not  
8 later than the 24th hour after the person's arrest if the person was  
9 arrested for a misdemeanor and a magistrate has not determined  
10 whether probable cause exists to believe that the person committed  
11 the offense. ~~[If the person is unable to obtain a surety for the  
12 bond or unable to deposit money in the amount of the bond, the  
13 person must be released on personal bond.]~~

14 (b) Except as provided by Subsection (c), a person who is  
15 arrested without a warrant and who is detained in jail must be  
16 released on bond, in an amount not to exceed \$5,000 ~~[\$10,000]~~, not  
17 later than the 24th ~~[48th]~~ hour after the person's arrest if the  
18 person was arrested for a felony and a magistrate has not determined  
19 whether probable cause exists to believe that the person committed  
20 the offense. If the person is unable to obtain a surety for the bond  
21 or unable to deposit money in the amount of the bond, the person  
22 must be released on personal bond.

23 (c) On the filing of an application by the attorney  
24 representing the state, a magistrate may postpone the release of a  
25 person under Subsection (a) or (b) for not more than 48 ~~[72]~~ hours  
26 after the person's arrest. An application filed under this  
27 subsection must state the reason a magistrate has not determined

1 whether probable cause exists to believe that the person committed  
2 the offense for which the person was arrested.

3 SECTION 1.03. The change in law made by this article to  
4 Article 17.03, Code of Criminal Procedure, applies only to a  
5 personal bond that is executed on or after the effective date of  
6 this Act. A personal bond executed before the effective date of this  
7 Act is governed by the law in effect when the personal bond was  
8 executed, and the former law is continued in effect for that  
9 purpose.

10 SECTION 1.04. The change in law made by this article to  
11 Article 17.033, Code of Criminal Procedure, applies only to a  
12 person who is arrested on or after the effective date of this Act. A  
13 person arrested before the effective date of this Act is governed by  
14 the law in effect on the date the person was arrested, and the  
15 former law is continued in effect for that purpose.

16 ARTICLE 2. JAIL STANDARDS

17 SECTION 2.01. Section 511.009(a), Government Code, is  
18 amended to read as follows:

19 (a) The commission shall:

20 (1) adopt reasonable rules and procedures  
21 establishing minimum standards for the construction, equipment,  
22 maintenance, and operation of county jails;

23 (2) adopt reasonable rules and procedures  
24 establishing minimum standards for the custody, care, and treatment  
25 of prisoners;

26 (3) adopt reasonable rules establishing minimum  
27 standards for the number of jail supervisory personnel and for

1 programs and services to meet the needs of prisoners;

2 (4) adopt reasonable rules and procedures  
3 establishing minimum requirements for programs of rehabilitation,  
4 education, and recreation in county jails;

5 (5) revise, amend, or change rules and procedures if  
6 necessary;

7 (6) provide to local government officials  
8 consultation on and technical assistance for county jails;

9 (7) review and comment on plans for the construction  
10 and major modification or renovation of county jails;

11 (8) require that the sheriff and commissioners of each  
12 county submit to the commission, on a form prescribed by the  
13 commission, an annual report on the conditions in each county jail  
14 within their jurisdiction, including all information necessary to  
15 determine compliance with state law, commission orders, and the  
16 rules adopted under this chapter;

17 (9) review the reports submitted under Subdivision (8)  
18 and require commission employees to inspect county jails regularly  
19 to ensure compliance with state law, commission orders, and rules  
20 and procedures adopted under this chapter;

21 (10) adopt a classification system to assist sheriffs  
22 and judges in determining which defendants are low-risk and  
23 consequently suitable participants in a county jail work release  
24 program under Article 42.034, Code of Criminal Procedure;

25 (11) adopt rules relating to requirements for  
26 segregation of classes of inmates and to capacities for county  
27 jails;

1           (12) require that the chief jailer of each municipal  
2 lockup submit to the commission, on a form prescribed by the  
3 commission, an annual report of persons under 17 years of age  
4 securely detained in the lockup, including all information  
5 necessary to determine compliance with state law concerning secure  
6 confinement of children in municipal lockups;

7           (13) at least annually determine whether each county  
8 jail is in compliance with the rules and procedures adopted under  
9 this chapter;

10           (14) require that the sheriff and commissioners court  
11 of each county submit to the commission, on a form prescribed by the  
12 commission, an annual report of persons under 17 years of age  
13 securely detained in the county jail, including all information  
14 necessary to determine compliance with state law concerning secure  
15 confinement of children in county jails;

16           (15) schedule announced and unannounced inspections  
17 of jails under the commission's jurisdiction using the risk  
18 assessment plan established under Section [511.0085](#) to guide the  
19 inspections process;

20           (16) adopt a policy for gathering and distributing to  
21 jails under the commission's jurisdiction information regarding:

22                   (A) common issues concerning jail  
23 administration;

24                   (B) examples of successful strategies for  
25 maintaining compliance with state law and the rules, standards, and  
26 procedures of the commission; and

27                   (C) solutions to operational challenges for

1 jails;

2 (17) report to the Texas Correctional Office on  
3 Offenders with Medical or Mental Impairments on a jail's compliance  
4 with Article 16.22, Code of Criminal Procedure;

5 (18) adopt reasonable rules and procedures  
6 establishing minimum requirements for jails to:

7 (A) determine if a prisoner is pregnant; and

8 (B) ensure that the jail's health services plan  
9 addresses medical and mental health care, including nutritional  
10 requirements, and any special housing or work assignment needs for  
11 persons who are confined in the jail and are known or determined to  
12 be pregnant;

13 (19) provide guidelines to sheriffs regarding  
14 contracts between a sheriff and another entity for the provision of  
15 food services to or the operation of a commissary in a jail under  
16 the commission's jurisdiction, including specific provisions  
17 regarding conflicts of interest and avoiding the appearance of  
18 impropriety;

19 (20) adopt reasonable rules and procedures  
20 establishing minimum standards for prisoner visitation that  
21 provide each prisoner at a county jail with a minimum of two  
22 in-person, noncontact visitation periods per week of at least 20  
23 minutes duration each;

24 (21) require the sheriff of each county to:

25 (A) investigate and verify the veteran status of  
26 each prisoner by using data made available from the Veterans  
27 Reentry Search Service (VRSS) operated by the United States

1 Department of Veterans Affairs or a similar service; and

2 (B) use the data described by Paragraph (A) to  
3 assist prisoners who are veterans in applying for federal benefits  
4 or compensation for which the prisoners may be eligible under a  
5 program administered by the United States Department of Veterans  
6 Affairs;

7 (22) adopt reasonable rules and procedures regarding  
8 visitation of a prisoner at a county jail by a guardian, as defined  
9 by Section 1002.012, Estates Code, that:

10 (A) allow visitation by a guardian to the same  
11 extent as the prisoner's next of kin, including placing the  
12 guardian on the prisoner's approved visitors list on the guardian's  
13 request and providing the guardian access to the prisoner during a  
14 facility's standard visitation hours if the prisoner is otherwise  
15 eligible to receive visitors; and

16 (B) require the guardian to provide the sheriff  
17 with letters of guardianship issued as provided by Section  
18 1106.001, Estates Code, before being allowed to visit the prisoner;  
19 ~~and~~

20 (23) adopt reasonable rules and procedures to ensure  
21 the safety of prisoners, including rules and procedures that  
22 require a county jail to:

23 (A) give prisoners the ability to access a mental  
24 health professional at the jail or through a telemental health  
25 service 24 hours a day;

26 (B) give prisoners the ability to access a health  
27 professional at the jail or through a telehealth service 24 hours a

1 day or, if a health professional is unavailable at the jail or  
2 through a telehealth service, provide for a prisoner to be  
3 transported to access a health professional; and

4 (C) if funding is available under Section  
5 511.019, install automated electronic sensors or cameras to ensure  
6 accurate and timely in-person checks of cells or groups of cells  
7 confining at-risk individuals;

8 (24) adopt reasonable rules and procedures  
9 establishing minimum standards regarding the management of an  
10 intoxicated prisoner in county jails; and

11 (25) adopt reasonable rules and procedures  
12 establishing minimum standards regarding the prevention of sexual  
13 assault in county jails.

14 SECTION 2.02. Section 511.020(e), Government Code, is added  
15 to read as follows:

16 (e) the reports described in this section ought to be broken  
17 down by gender and race or ethnicity of the prisoner.

18 SECTION 2.03. Not later than September 1, 2019, the  
19 Commission on Jail Standards shall adopt the rules and procedures  
20 required by Sections 511.009(a)(24) and (25), Government Code, as  
21 added by this article. On and after January 1, 2020, a county jail  
22 shall comply with any rule or procedure adopted by the Commission on  
23 Jail Standards under those subdivisions.

24 ARTICLE 3. MOTOR VEHICLE STOPS, SEARCHES, AND ISSUANCE OF CITATIONS

25 SECTION 3.01. Article 2.13, Code of Criminal Procedure, is  
26 amended by adding Subsection (g) to read as follows:

27 (g) The officer may not conduct a search based solely on a



1 person's consent to the search unless:

2 (1) the officer verbally and in writing informs the  
3 person of the person's right to refuse the search; and

4 (2) the person signs an acknowledgment that the  
5 person:

6 (A) received the information described by  
7 Subdivision (1); and

8 (B) consents to the search.

9 SECTION 3.02. Article 2.134(f), Code of Criminal Procedure,  
10 is amended to read as follows:

11 (f) The data collected as a result of the reporting  
12 requirements of this article shall not constitute prima facie  
13 evidence of racial profiling but is admissible in a court of law.

14 SECTION 3.03. Article 3.05, Code of Criminal Procedure, is  
15 amended to read as follows:

16 Art. 3.05. RACIAL PROFILING. (a) In this code, "racial  
17 profiling" means a law enforcement-initiated action based on an  
18 individual's race, ethnicity, or national origin rather than on the  
19 individual's behavior or on information identifying the individual  
20 as having engaged in criminal activity.

21 (b) Racial profiling may be identified through the  
22 examination of sufficient and evidence-based data analysis, taking  
23 into consideration the context and surroundings of an action  
24 initiated by law enforcement.

25 SECTION 3.04. Article 14.06, Code of Criminal Procedure, is  
26 amended by amending Subsection (b) and adding Subsection (b-1) to  
27 read as follows:

1 (b) A peace officer who is charging a person, including a  
2 child, with committing an offense that is a [~~Class C~~] misdemeanor  
3 punishable by a fine only, other than an offense under Section  
4 49.02, Penal Code, an offense under Chapter 106, Alcoholic Beverage  
5 Code, or an offense for which the officer reasonably believes it is  
6 necessary to take the person before a magistrate to prevent a  
7 foreseeable injury or an altercation, shall ~~may~~, instead of  
8 taking the person before a magistrate, issue a citation to the  
9 person that contains:

10 (1) written notice of the time and place the person  
11 must appear before a magistrate;

12 (2) the name and address of the person charged;

13 (3) the offense charged;

14 (4) information regarding the alternatives to the full  
15 payment of any fine or costs assessed against the person, if the  
16 person is convicted of the offense and is unable to pay that amount;  
17 and

18 (5) the following admonishment, in boldfaced or  
19 underlined type or in capital letters:

20 "If you are convicted of a misdemeanor offense involving  
21 violence where you are or were a spouse, intimate partner, parent,  
22 or guardian of the victim or are or were involved in another,  
23 similar relationship with the victim, it may be unlawful for you to  
24 possess or purchase a firearm, including a handgun or long gun, or  
25 ammunition, pursuant to federal law under 18 U.S.C. Section  
26 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
27 questions whether these laws make it illegal for you to possess or

1 purchase a firearm, you should consult an attorney."

2 (b-1) A peace officer who is charging a person, including a  
3 child, with committing an offense that is a misdemeanor punishable  
4 by a fine only under Chapter 106, Alcoholic Beverage Code, may,  
5 instead of taking the person before a magistrate, issue to the  
6 person a citation that contains written notice of the time and place  
7 the person must appear before a magistrate, the name and address of  
8 the person charged, and the offense charged.

9 SECTION 3.05. Section 543.004(a), Transportation Code, is  
10 amended to read as follows:

11 (a) An officer shall issue a written notice to appear if:

- 12 (1) the offense charged is[+  
13 [~~(A) speeding,~~  
14 [~~(B) the use of a wireless communication device~~  
15 ~~under Section 545.4251, or~~  
16 [~~(C)~~] a misdemeanor under this subtitle that is  
17 punishable by a fine only [~~violation of the open container law,~~  
18 ~~Section 49.031, Penal Code]~~; and

19 (2) the person makes a written promise to appear in  
20 court as provided by Section 543.005.

21 SECTION 3.06. Article 2.13(g), Code of Criminal Procedure,  
22 as added by this article, applies only to a motor vehicle stop or  
23 search that occurs on or after the effective date of this Act.

24 SECTION 3.07. The changes in law made by this article apply  
25 only to an offense committed on or after the effective date of this  
26 Act. An offense committed before the effective date of this Act is  
27 governed by the law in effect on the date the offense was committed,

1 and the former law is continued in effect for that purpose. For  
2 purposes of this section, an offense was committed before the  
3 effective date of this article if any element of the offense  
4 occurred before that date.

5 SECTION 1. Section 9.41, Penal Code, is amended to read as  
6 follows:

7 Sec. 9.41. PROTECTION OF ONE'S OWN PROPERTY. (a) A person  
8 in lawful possession of land, including a habitation on the land, or  
9 tangible, movable property is justified in using force against  
10 another when and to the degree the actor reasonably believes the  
11 force is immediately necessary to prevent or terminate the other's  
12 trespass on the land or unlawful interference with the property.

13 (b) A person unlawfully dispossessed of land, including a  
14 habitation on the land, or tangible, movable property by another is  
15 justified in using force against the other when and to the degree  
16 the actor reasonably believes the force is immediately necessary to  
17 reenter the land or recover the property if the actor uses the force  
18 immediately or in fresh pursuit after the dispossession and:

19 (1) the actor reasonably believes the other had no  
20 claim of right when he dispossessed the actor; or

21 (2) the other accomplished the dispossession by using  
22 force, threat, or fraud against the actor.

23 ARTICLE 4. DEADLY FORCE.

24 SECTION 4,01. Section 9.42, Penal Code, is amended to read  
25 as follows:

26 Sec. 9.42. DEADLY FORCE TO PROTECT PROPERTY. A person is  
27 justified in using deadly force against another to protect land,

1 including a habitation on the land, or tangible, movable property  
2 if the actor:

3 (1) is [~~if he would be~~] justified in using force  
4 against the other under Section 9.41; [~~and~~]

5 (2) [~~when and to the degree he~~] reasonably believes  
6 the deadly force is immediately necessary:

7 (A) to prevent the other's imminent commission of  
8 arson, burglary, robbery, aggravated robbery, theft during the  
9 nighttime, or criminal mischief during the nighttime; or

10 (B) to prevent the other who is fleeing  
11 immediately after committing burglary, robbery, aggravated  
12 robbery, or theft during the nighttime from escaping with the  
13 property; and

14 (3) [~~he~~] reasonably believes that:

15 (A) the land or property cannot be protected or  
16 recovered by any other means; or

17 (B) the use of force other than deadly force to  
18 protect or recover the land or property would expose the actor or  
19 another to a substantial risk of death or serious bodily injury.

20 SECTION 4.02. Sections 9.32(a) and (c), Penal Code, are  
21 amended to read as follows:

22 (a) A person is justified in using deadly force against  
23 another if the actor:

24 (1) is [~~if the actor would be~~] justified in using force  
25 against the other under Section 9.31; [~~and~~]

26 (2) is unable to safely retreat; and

27 (3) [~~when and to the degree the actor~~] reasonably

1 believes the deadly force is immediately necessary:

2 (A) to protect the actor against the other's use  
3 or attempted use of unlawful deadly force; or

4 (B) to prevent the other's imminent commission of  
5 aggravated kidnapping, murder, sexual assault, or aggravated  
6 sexual assault [~~, robbery, or aggravated robbery~~].

7 (c) A person who is in the person's own habitation and [~~has a~~  
8 ~~right to be present at the location where the deadly force is used,~~]  
9 who has not provoked the person against whom the deadly force is  
10 used [~~, and who is not engaged in criminal activity at the time the~~  
11 ~~deadly force is used~~] is not required to retreat before using deadly  
12 force as described by this section.

13 SECTION 4.03. Sections 9.32(b) and (d), Penal Code, are  
14 repealed.

15 SECTION 4.04. The change in law made by this Act applies  
16 only to an offense committed on or after the effective date of this  
17 Act. An offense committed before the effective date of this Act is  
18 governed by the law in effect on the date the offense was committed,  
19 and the former law is continued in effect for that purpose. For  
20 purposes of this section, an offense was committed before the  
21 effective date of this Act if any element of the offense occurred  
22 before that date.

23 ARTICLE 5. POLICE TRAINING

24 SECTION 5.01. Section 1701.253, Occupations Code, is  
25 amended by adding Subsection (o) to read as follows:

26 (o) As part of the minimum curriculum requirements, the  
27 commission shall require an officer to complete a statewide

1 education and training program on tactical communication.

2 ARTICLE 6. EFFECTIVE DATE

3 SECTION 6.01. This Act takes effect September 1, 2019.