

By: Whitmire

S.B. No. 2241

A BILL TO BE ENTITLED

AN ACT

relating to the judges authorized to release on bail a defendant charged with certain offenses, and the considerations for setting the amount of bail.

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

SECTION 1. This Act may be cited as the "Damon Allen Act."

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.027 to read as follows:

Art. 17.027. AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES.  
Notwithstanding any other law and except as provided by Article 17.03(b), only a district court judge, or an associate judge appointed by a district court judge under Chapter 54A, Government Code, may release on bail a defendant charged with an offense:

(1) punishable as a felony; or  
(2) under Chapter 21 or 22, Penal Code, that is punishable as a Class B misdemeanor or any higher category of offense.

SECTION 3. Article 17.15, Code of Criminal Procedure, is amended to read as follows:

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

1           (1) ~~[1.]~~ The bail shall be sufficiently high to give  
2 reasonable assurance that the undertaking will be complied with.

3           (2) ~~[2.]~~ The power to require bail is not to be so  
4 used as to make it an instrument of oppression.

5           (3) ~~[3.]~~ The nature of the offense, ~~[and]~~ the  
6 circumstances under which the offense ~~[it]~~ was committed, and the  
7 defendant's criminal history shall ~~[are to]~~ be considered.

8           (4) ~~[4.]~~ The ability to make bail shall ~~[is to]~~ be  
9 considered ~~[regarded]~~, and proof may be taken upon this point.

10          (5) ~~[5.]~~ The future safety of a victim of the alleged  
11 offense, peace officers, and the community shall be considered.

12          (6) A pretrial risk assessment of the defendant shall  
13 be conducted using a standardized risk assessment tool developed by  
14 the Bail Advisory Program established under Section 772.0064,  
15 Government Code, and the results shall be considered.

16          (7) Any other relevant facts or circumstances may be  
17 considered.

18          SECTION 4. Chapter [772](#), Government Code, is amended by  
19 adding Section 772.0064 to read as follows:

20          Sec. 772.0064. BAIL ADVISORY PROGRAM. (a) The governor  
21 shall establish the Bail Advisory Program within the criminal  
22 justice division established under Section [772.006](#).

23          (b) The governor shall appoint a director for the program to  
24 serve at the pleasure of the governor.

25          (c) The program shall, in coordination with the Office of  
26 Court Administration:

27               (1) develop a standardized pretrial risk assessment

1 tool pursuant to Article 17.15(6), Code of Criminal Procedure;

2 (2) make recommendations to the criminal justice  
3 division regarding best practices for pretrial release and personal  
4 bond offices as authorized by Article 17.42, Code of Criminal  
5 Procedure, to be submitted to the legislature as part of the  
6 criminal justice division's biennial report required under Section  
7 772.006(a)(9);

8 (3) collect and analyze research and information in  
9 all areas related to pretrial release practices, and distribute the  
10 research, information, and analyses as a resource to courts,  
11 personal bond offices, and other relevant organizations; and

12 (4) collect information relating to those released on  
13 bail, including the rate of failure to appear, commission of new  
14 offenses, and other relevant information.

15 SECTION 5. The change in law made by this Act applies only  
16 to a person who is arrested on or after the effective date of this  
17 Act. A person arrested before the effective date of this Act is  
18 governed by the law in effect on the date the person was arrested,  
19 and the former law is continued in effect for that purpose.

20 SECTION 6. This Act takes effect September 1, 2019.