

1-1 By: Huffman, Bettencourt, Hinojosa S.J.R. No. 3  
1-2 (In the Senate - Filed August 7, 2021; August 7, 2021, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 August 7, 2021, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; August 7, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			

1-13 SENATE JOINT RESOLUTION

1-14 proposing a constitutional amendment requiring a judge or  
1-15 magistrate to impose the least restrictive conditions of bail that  
1-16 may be necessary and authorizing the denial of bail under some  
1-17 circumstances to a person accused of a violent or sexual offense or  
1-18 of continuous trafficking of persons.

1-19 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 11, Article I, Texas Constitution, is  
1-21 amended to read as follows:

1-22 Sec. 11. (a) All prisoners shall be bailable by sufficient  
1-23 sureties, unless for capital offenses, when the proof is evident;  
1-24 but this provision shall not be so construed as to prevent bail  
1-25 after indictment found upon examination of the evidence, in such  
1-26 manner as may be prescribed by law.

1-27 (b) In setting bail, a judge or magistrate shall impose the  
1-28 least restrictive conditions, if any, and the monetary bond or  
1-29 personal bond necessary to reasonably ensure the accused person's  
1-30 appearance in court as required and the safety of the community, law  
1-31 enforcement, and the victim of the alleged offense.

1-32 SECTION 2. Article I, Texas Constitution, is amended by  
1-33 adding Section 11d to read as follows:

1-34 Sec. 11d. (a) A person accused of committing a sexual  
1-35 offense punishable as a felony of the first degree, of committing a  
1-36 violent offense, or of committing continuous trafficking of persons  
1-37 may be denied bail pending trial if a judge or magistrate determines  
1-38 by clear and convincing evidence after a hearing that requiring  
1-39 bail and conditions of release is insufficient to reasonably  
1-40 ensure:

1-41 (1) the person's appearance in court as required; or  
1-42 (2) the safety of the community, law enforcement, or  
1-43 the victim of the alleged offense.

1-44 (b) A judge or magistrate who denies a person bail in  
1-45 accordance with this section shall prepare a written order that  
1-46 includes findings of fact and a statement explaining the judge's or  
1-47 magistrate's reason for the denial.

1-48 (c) This section may not be construed to:

1-49 (1) limit any right a person has under other law to  
1-50 contest a denial of bail or to contest the amount of bail set by a  
1-51 judge or magistrate; or

1-52 (2) require any testimonial evidence before a judge or  
1-53 magistrate makes a bail decision with respect to a person to whom  
1-54 this section applies.

1-55 (d) For purposes of determining whether clear and  
1-56 convincing evidence exists to deny a person bail as described by  
1-57 this section, a judge or magistrate shall consider the factors  
1-58 required to be considered by a judge or magistrate in setting bail  
1-59 under general law, including statutory law governing criminal  
1-60 procedure.

1-61 (e) In this section, "violent offense" and "sexual offense"

2-1 have the meanings assigned by Section 11a of this article.  
2-2 SECTION 3. This proposed constitutional amendment shall be  
2-3 submitted to the voters at an election to be held May 7, 2022. The  
2-4 ballot shall be printed to permit voting for or against the  
2-5 proposition: "The constitutional amendment requiring a judge or  
2-6 magistrate to impose the least restrictive conditions of bail that  
2-7 may be necessary and authorizing the denial of bail under some  
2-8 circumstances to a person accused of a violent or sexual offense or  
2-9 of continuous trafficking of persons."

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