

RESOLUTION ANALYSIS

S.J.R. 1
By: Huffman
Constitutional Rights & Remedies, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that a judge's or magistrate's goal in setting bail should be to protect public safety and ensure a defendant's appearance in court. Oftentimes, violent offenders are able to make bail while low-level offenders who pose no threat to public safety are not able to make bail. S.J.R. 1 protects Texans by providing a process for a judge or magistrate to deny bail to defendants charged with violent offenses, sexual offenses punishable as a first degree felony, or offenses of continuous human trafficking if they determine it is necessary to protect public safety and ensure a defendant's appearance in court. S.J.R. 1 also improves fairness by requiring a judge or magistrate who sets bail to impose the least restrictive conditions that will still ensure public safety and ensure a defendant's appearance in court.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.J.R. 1 proposes an amendment to the Texas Constitution to require a judge or magistrate, in setting bail, to impose the least restrictive conditions, if any, and the monetary bond or personal bond necessary to reasonably ensure the accused person's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

S.J.R. 1 defines "violent offense," by reference, to mean: murder; aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault; aggravated kidnapping; or aggravated robbery. The resolution defines "sexual offense," by reference, to mean: aggravated sexual assault; sexual assault; or indecency with a child.

S.J.R. 1 authorizes a judge or magistrate to deny bail pending trial to a person accused of committing a sexual offense punishable as a first degree felony, a violent offense, or a continuous trafficking of persons offense if the judge or magistrate determines by clear and convincing evidence after a hearing that requiring bail and conditions of release is insufficient to reasonably ensure the following:

- the person's appearance in court as required; or
- the safety of the community, law enforcement, or the victim of the alleged offense.

The resolution requires the judge or magistrate, for purposes of determining whether clear and convincing evidence exists to deny the person bail, to consider the factors required to be

considered by a judge or magistrate in setting bail under general law, including statutory law governing criminal procedure.

S.J.R. 1 requires a judge or magistrate who denies a person bail under the resolution's provisions to prepare a written order that includes findings of fact and a statement explaining the judge's or magistrate's reason for the denial. The resolution's provisions relating to the denial of bail may not be construed to do the following:

- limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or
- require any testimonial evidence before a judge or magistrate makes a bail decision with respect to a person to whom those provisions apply.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held May 7, 2022.