

By: White

H.B. No. 921

A BILL TO BE ENTITLED

AN ACT

relating to the release of defendants on bail.

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

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.027 and 17.028 to read as follows:

Art. 17.027. BAIL DECISION. (a) Unless the defendant has been released, if a defendant is not released on personal bond in accordance with a standing order adopted by the judges of the criminal courts trying cases in that county, without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order at a proceeding open to the public that the defendant be:

(1) released on personal bond or monetary bail bond without conditions;

(2) released on personal bond or monetary bail bond with any condition the magistrate determines necessary; or

(3) denied bail in accordance with this chapter and other law.

(b) In making a bail decision under this article, the magistrate shall impose, as applicable, the least restrictive conditions and minimum amount of bail, whether personal bond or monetary bail bond, necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

1        (c) Before imposing a monetary bail bond under Subsection  
2 (b), the magistrate shall make a written finding that the defendant  
3 is able to pay the amount to be imposed. The finding must state the  
4 information on which the magistrate relied. The Office of Court  
5 Administration of the Texas Judicial System shall promulgate a form  
6 for this purpose and make it available to magistrates at no cost.

7        (d) A bail decision made under this article must be based on  
8 clear and convincing evidence. The defendant must be permitted an  
9 opportunity to present and rebut evidence relevant to the decision.

10        Art. 17.028. PRETRIAL NOTICE SYSTEM. The judges of the  
11 criminal courts trying cases in a county may adopt a pretrial notice  
12 system under which defendants are periodically notified of the  
13 date, time, and location of future court appearances.

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

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

21            (1) [1.] The bail shall be sufficiently high to give  
22 reasonable assurance that the undertaking will be complied with.

23            (2) [2.] The power to require bail is not to be so used  
24 as to make it an instrument of oppression.

25            (3) [3.] The nature of the offense, [~~and~~] the  
26 circumstances under which the offense [~~it~~] was committed, and the  
27 defendant's criminal history, including any prior offenses

1 involving peace officers or family violence, are to be considered.

2           (4) [4.] The ability to make bail is to be considered  
3 [regarded], and proof may be taken upon this point.

4           (5) [5.] The future safety of a victim of the alleged  
5 offense and the community shall be considered.

6           (b) In this article, "family violence" has the meaning  
7 assigned by Section 71.004, Family Code.

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

10           Art. 17.1501. BAIL SCHEDULE; RELEASE OF DEFENDANT. (a) The  
11 judges of the criminal courts trying cases in a county may  
12 promulgate a standing order setting out a schedule of suggested  
13 amounts for monetary bail bonds for any offense over which the  
14 courts have jurisdiction under Chapter 4. In promulgating the  
15 order, judges shall consider factors such as judicial efficiency,  
16 public safety, the severity of the offense, and the use of criminal  
17 history record information.

18           (b) A defendant who is charged with an offense for which a  
19 bail schedule has been established under Subsection (a) may waive  
20 the defendant's right to appear before a magistrate under Article  
21 15.17 and be released from custody on giving a monetary bail bond in  
22 the amount required by the schedule.

23           SECTION 4. The change in law made by this Act applies only  
24 to a person who is arrested on or after the effective date of this  
25 Act. A person arrested before the effective date of this Act is  
26 governed by the law in effect on the date the person was arrested,  
27 and the former law is continued in effect for that purpose.

1 SECTION 5. This Act takes effect September 1, 2021.