

By: Huffman

S.B. No. 21

A BILL TO BE ENTITLED

1 AN ACT
2 relating to rules for fixing the amount of bail, to the release of
3 certain defendants on a bail bond or personal bond, to related
4 duties of a magistrate in a criminal case, to the reporting of
5 information pertaining to bail bonds, and to the regulation of
6 charitable bail organizations.

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

8 SECTION 1. Articles 17.03(b) and (b-1), Code of Criminal
9 Procedure, are amended to read as follows:

10 (b) Only the trial court with jurisdiction over ~~[before~~
11 ~~whom]~~ the case ~~[is pending]~~ may release on personal bond a defendant
12 who:

13 (1) is charged with an offense under the following
14 sections of the Penal Code:

- 15 (A) Section 19.03 (Capital Murder);
- 16 (B) Section 20.04 (Aggravated Kidnapping);
- 17 (C) Section 22.021 (Aggravated Sexual Assault);
- 18 (D) ~~[Section 22.03 (Deadly Assault on Law~~
19 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
20 ~~Pardons and Paroles, or Court Participant)];~~
- 21 ~~[(E)]~~ Section 22.04 (Injury to a Child, Elderly
22 Individual, or Disabled Individual);
- 23 (E) ~~[(F)]~~ Section 29.03 (Aggravated Robbery);
- 24 (F) ~~[(G)]~~ Section 30.02 (Burglary);

1 (G) [~~(H)~~] Section 71.02 (Engaging in Organized
2 Criminal Activity);

3 (H) [~~(I)~~] Section 21.02 (Continuous Sexual Abuse
4 of Young Child or Children); or

5 (I) [~~(J)~~] Section 20A.03 (Continuous Trafficking
6 of Persons);

7 (2) is charged with a felony under Chapter 481, Health
8 and Safety Code, or Section 485.033, Health and Safety Code,
9 punishable by imprisonment for a minimum term or by a maximum fine
10 that is more than a minimum term or maximum fine for a first degree
11 felony; or

12 (3) does not submit to testing for the presence of a
13 controlled substance in the defendant's body as requested by the
14 court or magistrate under Subsection (c) of this article or submits
15 to testing and the test shows evidence of the presence of a
16 controlled substance in the defendant's body.

17 (b-1) A defendant is not eligible to be released [~~magistrate~~
18 ~~may not release~~] on personal bond if the [~~a~~] defendant:

19 (1) [who, at the time of the commission of the charged
20 offense, is civilly committed as a sexually violent predator under
21 Chapter 841, Health and Safety Code;

22 (2) has, in the preceding two years, failed to appear
23 after being released on personal bond or has had a bond found to be
24 insufficient;

25 (3) is charged with committing any offense while
26 released on bail for another offense;

27 (4) was convicted of any felony offense in the

1 preceding three years or any Class A or Class B misdemeanor offense
2 in the preceding year;

3 (5) is currently charged with multiple offenses,
4 regardless of whether the offenses are pending before the same
5 court;

6 (6) is charged with any offense under Title 5, Penal
7 Code, in which there is an identifiable victim;

8 (7) is charged with an offense that involves
9 possession of four or more grams of a controlled substance;

10 (8) is charged with, or in the preceding five years was
11 charged with, an offense under Section 38.06, Penal Code;

12 (9) has been convicted of an offense under Section
13 22.011 or 22.021, Penal Code; or

14 (10) is charged with any offense involving the use of a
15 deadly weapon as defined by Section 1.07, Penal Code.

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

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

23 1. The bail shall be sufficiently high to give reasonable
24 assurance that the undertaking will be complied with.

25 2. The power to require bail is not to be so used as to make
26 it an instrument of oppression.

27 3. The nature of the offense and the circumstances under

1 which it was committed are to be considered.

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

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

6 6. The criminal history and immigration status of the
7 defendant, including any prior offenses committed against a public
8 servant or involving family violence, shall be considered.

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

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

13 Art. 17.1501. BAIL SCHEDULE; HEARING. (a) The judges of
14 the courts trying criminal cases in a county may promulgate a
15 standing order setting out a schedule of suggested bail amounts for
16 any offense over which the courts have jurisdiction under Chapter
17 4.

18 (b) A defendant who is unable to give bail in the amount
19 required by the schedule may file with the applicable magistrate a
20 sworn affidavit declaring the maximum amount that the defendant
21 would be able to pay or provide as security within 48 hours of
22 arrest for purposes of obtaining a bail bond. The affidavit must
23 set out sufficient facts to clearly establish that amount, given
24 the totality of the defendant's circumstances.

25 (c) A defendant who files an affidavit under Subsection (b)
26 is entitled to a hearing before the magistrate on the bail amount.
27 The hearing must be held not later than 48 hours after the charges

1 were filed against the defendant or 48 hours after the defendant was
2 arrested, whichever is later. At the hearing, the magistrate shall
3 consider the facts stated in the affidavit and the rules
4 established by Article 17.15 and set the defendant's bail. The
5 magistrate shall issue oral or written findings of fact supporting
6 the decision.

7 (d) A defendant who has not given bail before the fourth
8 business day after the date bail is set under this article shall be
9 taken before the court before whom the case is pending for a hearing
10 to reconsider the bail amount. At a hearing under this subsection,
11 the court may adjust the bail, keep the bail as previously set, or
12 impose any additional conditions of release on bond the court
13 considers necessary.

14 (e) This article may not be interpreted as creating a right
15 to release on bail in this state that does not exist under the
16 constitution of this state.

17 SECTION 4. Section 27.005, Government Code, is amended to
18 read as follows:

19 Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes
20 of removal under Chapter 87, Local Government Code, "incompetency"
21 in the case of a justice of the peace includes the failure of the
22 justice to successfully complete:

23 (1) within one year after the date the justice is first
24 elected, an 80-hour course in the performance of the justice's
25 duties, including not less than four hours of instruction regarding
26 the justice's duties:

27 (A) under Article 15.17, Code of Criminal

1 Procedure; and

2 (B) with respect to setting bail in criminal
3 cases; and

4 (2) each following year, a 20-hour course in the
5 performance of the justice's duties, including not less than:

6 (A) two hours of instruction regarding the
7 justice's duties:

8 (i) under Article 15.17, Code of Criminal
9 Procedure; and

10 (ii) with respect to setting bail in
11 criminal cases; and

12 (B) 10 hours of instruction regarding
13 substantive, procedural, and evidentiary law in civil matters.

14 (b) The courses must ~~may~~ be completed:

15 (1) in an accredited state-supported school of higher
16 education; or

17 (2) through a course in bail bond law that is:

18 (A) approved by the State Bar of Texas; and

19 (B) offered by a public or accredited private
20 institution of higher education in this state.

21 SECTION 5. Subchapter C, Chapter 71, Government Code, is
22 amended by adding Section 71.0354 to read as follows:

23 Sec. 71.0354. BAIL & PRETRIAL RELEASE INFORMATION. (a) As a
24 component of the official monthly report submitted to the Office of
25 Court Administration of the Texas Judicial System, the clerk of
26 each court at law shall report:

27 (1) the number of bail bonds given for each level of

1 offense;

2 (2) the number and type of bail bonds given;

3 (3) the number of defendants that posted bail;

4 (4) the number of defendants released on bail who
5 failed to reappear; and

6 (5) the number of defendants released on bail who
7 committed new offenses.

8 (b) The Office of Court Administration of the Texas Judicial
9 System shall post the information in a publicly accessible place on
10 the agency's website without disclosing any personal information of
11 any defendants, judges, or magistrates.

12 SECTION 6. Chapter 17, Code of Criminal Procedure, is
13 amended by adding Article 17.071 to read as follows:

14 Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) In this
15 article, "charitable bail organization" means a person who solicits
16 donations from the public for the purpose of depositing money with a
17 court in the amount of a defendant's bail bond.

18 (b) This article does not apply to a charitable bail
19 organization that pays a bail bond for not more than one defendant
20 in any 180-day period.

21 (c) A charitable bail organization shall file in the office
22 of the county clerk of each county where the organization intends to
23 pay bail bonds an affidavit designating the individuals authorized
24 to pay bonds on behalf of the organization.

25 (d) A charitable bail organization may only pay bail bonds
26 for indigent defendants charged with misdemeanors. The
27 organization may not pay more than a total amount of \$2,000 for each

1 defendant, regardless of the number of misdemeanor charges pending
2 against the defendant.

3 (e) Not later than the 10th day of each month, a charitable
4 bail organization shall submit, to the sheriff of each county in
5 which the organization files an affidavit under Subsection (c), a
6 report that includes the following information for each defendant
7 for whom the organization paid a bail bond in the preceding calendar
8 month:

9 (1) the name of the defendant;

10 (2) the cause number of the case;

11 (3) the county in which the applicable charge is
12 pending, if different from the county in which the bond was paid;
13 and

14 (4) any dates on which the defendant has failed to
15 appear in court as required for the charge for which the bond was
16 paid.

17 (f) Not later than January 10 and June 10 of each year, a
18 charitable bail organization shall submit, to the sheriff of each
19 county in which the organization files an affidavit under
20 Subsection (c), a report that includes the following information
21 for each donation of \$100 or more received after the organization's
22 most recent report under this subsection:

23 (1) the name, address, and telephone number of the
24 donor; and

25 (2) the amount donated.

26 (g) A charitable bail organization's initial report
27 submitted under Subsection (f) must include the information

1 required by that subsection for donations received by the
2 organization in the preceding two years.

3 (h) A charitable bail organization shall maintain records
4 of all donations received and bail bonds paid by the organization
5 until the fifth anniversary of the date the donation was received or
6 bond was paid. The sheriff or county clerk may audit the records.

7 (i) A charitable bail organization may not pay a bail bond
8 for a defendant at any time the organization is considered to be out
9 of compliance with the reporting requirements of this article.

10 (j) A sheriff may suspend a charitable bail organization
11 from paying bail bonds in the sheriff's county for one year if the
12 sheriff determines the organization has paid bonds in violation of
13 this article.

14 (k) Chapter 22 applies to a bail bond paid by a charitable
15 bail organization.

16 (l) A charitable bail organization shall maintain an office
17 in each county in which the organization files an affidavit under
18 Subsection (c).

19 (m) A charitable bail organization may not accept a premium
20 or compensation for paying a bail bond for a defendant.

21 SECTION 7. (a) Section 27.005(a)(1), Government Code, as
22 amended by this Act, applies only to a justice of the peace who is
23 first elected or appointed on or after the effective date of this
24 Act. A justice of the peace who is first elected or appointed
25 before the effective date of this Act is governed by the law in
26 effect on the date the justice was first elected or appointed, and
27 the former law is continued in effect for that purpose.

1 (b) A justice of the peace serving on the effective date of
2 this Act must complete the justice's initial two hours of
3 instruction required by Section 27.005(a)(2)(A), Government Code,
4 as added by this Act, not later than September 1, 2022.

5 (c) The changes in law made by this Act apply only to a
6 person who is arrested on or after the effective date of this Act. A
7 person arrested before the effective date of this Act is governed by
8 the law in effect on the date the person was arrested, and the
9 former law is continued in effect for that purpose.

10 SECTION 8. This Act takes effect September 1, 2021.