

By: Whitmire

S.B. No. 1775

A BILL TO BE ENTITLED

AN ACT

relating to criminal justice.

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

ARTICLE 1. BAIL AND PRETRIAL RELEASE

SECTION 1.01. Article 17.03, Code of Criminal Procedure, is amended by amending Subsections (a) and (c) and adding Subsection (b-2) to read as follows:

(a) Except as provided by Subsection (b), ~~or~~ (b-1), or (b-2), a magistrate may, in the magistrate's discretion, release the defendant on personal bond without sureties or other security.

(b-2) Notwithstanding any other law, a magistrate shall release on personal bond a defendant who is not charged with and has not been previously convicted of a violent offense unless the magistrate finds good cause to justify not releasing the defendant on personal bond.

(c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate may ~~shall~~ require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will

1 serve to reasonably assure the appearance of the defendant for
2 trial.

3 SECTION 1.02. Articles 17.033(a), (b), and (c), Code of
4 Criminal Procedure, are amended to read as follows:

5 (a) Except as provided by Subsection (c), a person who is
6 arrested without a warrant and who is detained in jail must be
7 released on personal bond~~[, in an amount not to exceed \$5,000,]~~ not
8 later than the 24th hour after the person's arrest if the person was
9 arrested for a misdemeanor and a magistrate has not determined
10 whether probable cause exists to believe that the person committed
11 the offense. ~~[If the person is unable to obtain a surety for the
12 bond or unable to deposit money in the amount of the bond, the
13 person must be released on personal bond.]~~

14 (b) Except as provided by Subsection (c), a person who is
15 arrested without a warrant and who is detained in jail must be
16 released on bond, in an amount not to exceed \$5,000 ~~[\$10,000]~~, not
17 later than the 24th ~~[48th]~~ hour after the person's arrest if the
18 person was arrested for a felony and a magistrate has not determined
19 whether probable cause exists to believe that the person committed
20 the offense. If the person is unable to obtain a surety for the bond
21 or unable to deposit money in the amount of the bond, the person
22 must be released on personal bond.

23 (c) On the filing of an application by the attorney
24 representing the state, a magistrate may postpone the release of a
25 person under Subsection (a) or (b) for not more than 48 ~~[72]~~ hours
26 after the person's arrest. An application filed under this
27 subsection must state the reason a magistrate has not determined

1 whether probable cause exists to believe that the person committed
2 the offense for which the person was arrested.

3 SECTION 1.03. The change in law made by this article to
4 Article 17.03, Code of Criminal Procedure, applies only to a
5 personal bond that is executed on or after the effective date of
6 this Act. A personal bond executed before the effective date of this
7 Act is governed by the law in effect when the personal bond was
8 executed, and the former law is continued in effect for that
9 purpose.

10 SECTION 1.04. The change in law made by this article to
11 Article 17.033, Code of Criminal Procedure, applies only to a
12 person who is arrested on or after the effective date of this Act. A
13 person arrested before the effective date of this Act is governed by
14 the law in effect on the date the person was arrested, and the
15 former law is continued in effect for that purpose.

16 ARTICLE 2. JAIL STANDARDS

17 SECTION 2.01. Section 511.009(a), Government Code, is
18 amended by adding subsection (25) and (26) to read as follows:

19 (25) adopt reasonable rules and procedures
20 establishing minimum standards regarding the management of an
21 intoxicated prisoner in county jails; and

22 (26) adopt reasonable rules and procedures
23 establishing minimum standards regarding the prevention of sexual
24 assault, use of force, and intoxicated inmates in county jails.

25 SECTION 2.02. Section 511.020(e), Government Code, is added
26 to read as follows:

27 (e) the reports described in this section ought to be broken

1 down by gender and race or ethnicity of the prisoner.

2 SECTION 2.03. Not later than September 1, 2021, the
3 Commission on Jail Standards shall adopt the rules and procedures
4 required by Sections 511.009(a)(25) and (26), Government Code, as
5 added by this article. On and after January 1, 2022, a county jail
6 shall comply with any rule or procedure adopted by the Commission on
7 Jail Standards under those subdivisions.

8 ARTICLE 3. MOTOR VEHICLE STOPS, SEARCHES, AND ISSUANCE OF CITATIONS

9 SECTION 3.01. Article 2.13, Code of Criminal Procedure, is
10 amended by adding Subsection (g) and (h) to read as follows:

11 (g) The officer may not conduct a search based solely on a
12 person's consent to the search unless:

13 (1) the officer verbally and in writing informs the
14 person of the person's right to refuse the search; and

15 (2) the person signs an acknowledgment that the
16 person:

17 (A) received the information described by
18 Subdivision (1); and

19 (B) consents to the search.

20 (h) The officer may not make a stop for an alleged violation
21 of a traffic law or ordinance as a pretext for investigating a
22 violation of another penal law.

23 SECTION 3.02. Article 2.133, Code of Criminal Procedure, is
24 amended by amending Subsection (c) and adding (d) to read as
25 follows:

26 (c) The chief administrator of a law enforcement agency,
27 regardless of whether the administrator is elected, employed, or

1 appointed, is responsible for auditing reports under Subsection (b)
2 to ensure that they are complete and accurate ~~the race or ethnicity~~
3 ~~of the person operating the motor vehicle is being reported.~~

4 (d) The information in the report referenced in subsection
5 (b)(2-9) shall be broken down by the categorize in(b)(1).

6 SECTION 3.03. Article 2.134(f), Code of Criminal Procedure,
7 is amended to read as follows:

8 (f) The data collected as a result of the reporting
9 requirements of this article shall not constitute prima facie
10 evidence of racial profiling but is admissible in a court of law.

11 SECTION 3.04. Chapter 2, Code of Criminal Procedure, is
12 amended by adding Article 2.135 to read as follows:

13 Art. 2.135. MOTOR VEHICLE STOP INVESTIGATIONS. (a) In this
14 article, "law enforcement agency" and "motor vehicle stop" have the
15 meanings assigned by Article 2.132(a).

16 (b) Each law enforcement agency shall adopt and implement a
17 detailed written policy regarding the administration of a motor
18 vehicle stop investigation in accordance with this article,
19 including the administrative penalties for violations of the
20 policy. A law enforcement agency may adopt the model policy
21 promulgated by the Texas A&M System's Institute for Predictive
22 Analytics in Criminal Justice or the agency's own policy.

23 (c) A peace officer may not:

24 (1) conduct a roadside investigation during a motor
25 vehicle stop for an offense other than the traffic violation
26 without suspicion based on a preponderance of the evidence that the
27 driver has committed the other offense;

1 (2) continue a roadside investigation during a motor
2 vehicle stop into an offense other than the traffic violation after
3 the driver has refused to consent to be searched unless the peace
4 officer has additional suspicion based on a preponderance of the
5 evidence that the driver has committed the other offense; or

6 (3) arrest a driver during a motor vehicle stop for a
7 traffic violation to conduct a search incident to arrest unless the
8 officer has probable cause to believe that the driver has committed
9 an offense more serious than a Class C misdemeanor.

10 SECTION 3.05. Article 3.05, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 3.05. RACIAL PROFILING. (a) In this code, "racial
13 profiling" means a law enforcement-initiated action based on an
14 individual's race, ethnicity, or national origin rather than on the
15 individual's behavior or on information identifying the individual
16 as having engaged in criminal activity.

17 (b) Racial profiling may be identified through the
18 examination of sufficient and evidence-based data analysis, taking
19 into consideration the context and surroundings of an action
20 initiated by law enforcement.

21 SECTION 3.06. Article 14.06, Code of Criminal Procedure, is
22 amended by amending Subsection (b) and adding Subsection (b-1) to
23 read as follows:

24 (b) A peace officer who is charging a person, including a
25 child, with committing an offense that is a [~~Class C~~] misdemeanor
26 punishable by a fine only, other than an offense under Section
27 49.02, Penal Code, an offense under Chapter 106, Alcoholic Beverage

1 Code, or an offense for which the officer reasonably believes it is
2 necessary to take the person before a magistrate to prevent a
3 foreseeable injury or an altercation, shall ~~may~~, instead of
4 taking the person before a magistrate, issue a citation to the
5 person that contains:

6 (1) written notice of the time and place the person
7 must appear before a magistrate;

8 (2) the name and address of the person charged;

9 (3) the offense charged;

10 (4) information regarding the alternatives to the full
11 payment of any fine or costs assessed against the person, if the
12 person is convicted of the offense and is unable to pay that amount;
13 and

14 (5) the following admonishment, in boldfaced or
15 underlined type or in capital letters:

16 "If you are convicted of a misdemeanor offense involving
17 violence where you are or were a spouse, intimate partner, parent,
18 or guardian of the victim or are or were involved in another,
19 similar relationship with the victim, it may be unlawful for you to
20 possess or purchase a firearm, including a handgun or long gun, or
21 ammunition, pursuant to federal law under 18 U.S.C. Section
22 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
23 questions whether these laws make it illegal for you to possess or
24 purchase a firearm, you should consult an attorney."

25 (b-1) A peace officer who is charging a person, including a
26 child, with committing an offense that is a misdemeanor punishable
27 by a fine only under Chapter 106, Alcoholic Beverage Code, may,

1 instead of taking the person before a magistrate, issue to the
2 person a citation that contains written notice of the time and place
3 the person must appear before a magistrate, the name and address of
4 the person charged, and the offense charged.

5 SECTION 3.07. Section 543.004(a), Transportation Code, is
6 amended to read as follows:

7 (a) An officer shall issue a written notice to appear if:

8 (1) the offense charged is[+]

9 [~~(A) speeding,~~

10 [~~(B) the use of a wireless communication device~~
11 ~~under Section 545.4251, or~~

12 [~~(C)] a misdemeanor under this subtitle that is
13 punishable by a fine only [~~violation of the open container law,~~
14 ~~Section 49.031, Penal Code]; and~~~~

15 (2) the person makes a written promise to appear in
16 court as provided by Section 543.005.

17 SECTION 3.08. Article 2.13(g), Code of Criminal Procedure,
18 as added by this article, applies only to a motor vehicle stop or
19 search that occurs on or after the effective date of this Act.

20 SECTION 3.09. The changes in law made by this article apply
21 only to an offense committed on or after the effective date of this
22 Act. An offense committed before the effective date of this Act is
23 governed by the law in effect on the date the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this article if any element of the offense
27 occurred before that date.

ARTICLE 4. CITIZEN OVERSIGHT BOARDS

SECTION 4.01. Section 143.009, Local Government Code, is amended by amending subsection 143.009(b) to read as follows:

(b) During an investigation, the commission or the commission member may:

(1) administer oaths;

(2) issue subpoenas to compel the attendance of any relevant person or party to the investigation including but not limited to the officer or party being investigated ~~witnesses~~ and the production of books, papers, documents, and accounts relating to the investigation; and

(3) cause the deposition of witnesses residing inside or outside the state.

(c) A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court.

(d) An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A person who fails to respond to a subpoena issued under this section commits an offense punishable as prescribed by Section 143.016.

ARTICLE 5. POLICE TRAINING

SECTION 5.01. Section 1701.253, Occupations Code, is amended by adding Subsection (q) to read as follows:

(q) As part of the minimum curriculum requirements, the

1 commission shall require an officer to complete a statewide
2 education and training program on tactical communication, and
3 implicit bias training.

4 SECTION 5.02. Section 1701.402, Occupations Code, is
5 amended by adding Subsection (p) to read as follows:

6 As a requirement for an intermediate proficiency
7 certificate, an officer must complete an education and training
8 program on tactical communication, and implicit bias training
9 established by the commission under Section 1701.253(q).

10 ARTICLE 6. EFFECTIVE DATE

11 SECTION 6.01. This Act takes effect September 1, 2021.