

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 5, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB20 by Murr (Relating to the release of defendants on bail.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB20, As Introduced : an impact of \$0 through the biennium ending August 31, 2023.

The bill would have a negative impact of (\$1,112,500) to General Revenue-Dedicated Statewide Electronic Filing System Account 5157 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>Statewide Electronic Filing System 5157</i>
2022	(\$650,000)
2023	(\$462,500)
2024	(\$462,500)
2025	(\$462,500)
2026	(\$462,500)

Fiscal Analysis

This bill would amend the Code of Criminal Procedure to limit the right to bail that currently exists for most arrestees. The bill would provide judges and magistrates with authority to deny bail to a defendant accused of a violent or sexual offense if the magistrate determines by clear and convincing evidence that requiring bail and conditions of relief is insufficient to reasonably ensure the defendant's appearance in court or the safety of the

community or any person. If a defendant is charged with capital murder or a sexual offense involving a victim younger than 17 years of age, a judge or magistrate would have to deny bail unless extraordinary circumstances support setting bail and conditions of release. Currently, all persons, except those charged with a capital offense when the proof is evident and certain other circumstances permitted by the Texas Constitution, have the right to bail.

The bill would require the Office of Court Administration (OCA) to develop a validated pretrial risk assessment tool that is standardized for statewide use. The bill would set specific requirements for the tool, which OCA would have to provide at no cost to counties. OCA would have to collect data regarding the use and efficiency of the tool and submit a biannual report regarding the data and recommended changes to certain legislative officials and the governor. The bill would require a magistrate setting bail to consider the pretrial risk assessment information for a defendant charged with a Class B misdemeanor or higher category of offense.

The bill would reduce the types of offenses for which an arrestee would be eligible for release on personal bond at the court's discretion. The list includes offenses involving violence (i.e., murder, kidnapping, aggravated robbery, assaults offenses, etc.), sexual misconduct (i.e., indecency with a child, sexual abuse of a child, trafficking of persons, sexual and aggravated sexual assault, etc.), and large amounts of a controlled substance.

The bill would expand the rules for setting the amount of bail to include a requirement that a judge or magistrate consider the results of a defendant's pretrial risk assessment and a defendant's criminal history.

The bill would require the clerk of a court to send a copy of the magistrate's order imposing a condition of release on bond or modifying or removing a condition previously imposed to the attorney for the state, the chief of police or sheriff of the county where the defendant resides, and if applicable, to the childcare facility or school that the defendant must avoid. The chief or sheriff would have to enter information relating to the conditions of release in the statewide database for law enforcement.

The bill would impose certain training, examination, experience, and residential requirements on magistrates who release on bail defendants charged with a Class B misdemeanor or higher category of offense. Under the provisions of the bill, if a magistrate does not satisfy the requirements, including passing an examination administered by OCA, the magistrate would not be able to release these defendants on bail.

The bill would require OCA to develop a training course, recertification course, and examination regarding a magistrate's duties and duties with respect to setting bail. Magistrates would be required to complete the courses and pass an examination, and OCA would have to provide a method of certifying a magistrate's completion of the courses.

Except as otherwise provided by the bill, the bill would take effect December 1, 2021. Certain provisions would take effect September 1, 2021. Section 2 of the bill would take effect December 1, 2021, only if the constitutional amendment proposed by the Eighty-Seventh Legislature, Regular Session, 2021 identified in the bill is approved by voters.

Methodology

Costs reflected in the table above are based on the analysis provided by OCA.

This analysis assumes funding would be needed for development and licensing costs in fiscal year 2022 totaling \$650,000 for the risk assessment tool. This total includes costs for professional services developing software and costs for licenses for 1,050 magistrates. This analysis also assumes annual costs of \$462,500 each subsequent year would be necessary for continued licensing and support for those magistrates.

This project would be eligible for funding from the General Revenue-Dedicated Statewide Electronic Filing Fund No. 5157. Based on information provided in the Comptroller's Biennial Revenue Estimate, this analysis assumes there would be sufficient funding available in the account in the 2022-23 biennium to cover funding necessary to implement the provisions of the bill.

Technology

Funding in fiscal year 2022 totaling \$650,000 would be needed for development and licensing costs for the risk assessment tool with \$462,500 each subsequent year for continued licensing and support for the system.

Local Government Impact

No significant fiscal impact to local government is anticipated.

OCA assumes that the use of the pretrial risk assessment information and the requirement to impose the least amount and least restrictive conditions of bond necessary will result in fewer detained inmates. OCA assumes that fewer defendants will be denied bail than will be released under the provisions of this bill.

While the bill may increase a county's pretrial processing and supervision costs, such costs are anticipated to be offset by reduction in jail costs and bail failure processing costs due to bond forfeitures and new charges.

Counties may also see a reduction in the cost of court-appointed attorneys, as defendants who are released are likely to use funds previously used for posting monetary bail to hire counsel, rather than needing appointment of counsel at county expense.

Source Agencies: 212 Office of Court Admin, 300 Trusteed Programs - Gov

LBB Staff: JMc, DKN, MW, BH