

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: HB921 by White (Relating to the release of defendants on bail.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require open bail hearings under certain circumstances.

Under the provisions of the bill, if the defendant is not released on personal bond in accordance with a standing order entered by criminal court judges, within 48 hours of arrest, the magistrate must hold a bail hearing open to the public to determine whether the defendant should be released on personal or monetary bail bond, with or without conditions, or denied bail under an applicable law. The magistrate would have to give the defendant an opportunity to present and rebut evidence and use a clear and convincing standard in making the determination. The magistrate would have to consider the defendant's criminal history and ability to make bail before deciding bail. The magistrate would have to impose the least restrictive conditions and minimum amount of bail necessary to reasonably ensure the defendant's appearance and safety of the community, including the alleged victim. Before imposing a monetary bail bond, the magistrate would have to enter a written finding that the defendant is able to pay the amount to be imposed and state the evidence or information on which the magistrate relied. The Office of Court Administration would have to create a form for the magistrate to use to record his findings.

Additionally, the bill would allow the criminal judges in a county to create a bail schedule under which a defendant may waive his or her right to appear before a magistrate and be released from custody upon paying the amount set by the bail schedule. The criminal judges would be able to adopt a pretrial notice or reminder system that provides defendants with information regarding their case, including scheduled court appearances.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

According to the Polk County Justice of the Peace Pct. 2, there may be possible significant impact due to longer court hearings, staffing and overtime

According to the Polk County Justice of the Peace Pct. 1, no fiscal impact is anticipated.

According to the Brazos County Justice of the Peace Pct. 3, the fiscal impact is not anticipated to be significant.

The Montgomery County Justice of Peace Pct. 1 anticipates a fiscal impact, but is unable to determine the exact impact at this time.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, DKN, BH, AF