

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 17, 2021**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: SB21** by Huffman (Relating to rules for fixing the amount of bail, to the release of certain defendants on a bail bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB21, As Engrossed : an impact of \$0 through the biennium ending August 31, 2023.

The bill would have a negative impact of (\$850,000) 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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from Statewide Electronic Filing System 5157</i>
2022	(\$850,000)
2023	\$0
2024	\$0
2025	\$0
2026	\$0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure to limit release on personal bond by magistrates of defendants charged with committing a new offense while on bail or community supervision in another case

involving violence or defendants previously convicted of a violent offense.

The bill would require the Department of Public Safety (DPS) to provide certain training with respect to criminal history records to magistrates, judges, sheriffs, peace officers, and jailers.

Under the bill's provisions, the Office of Court Administration (OCA) would be required to promulgate a bail form to be completed by magistrates, judges, sheriffs, peace officers, and jailers each time bail is set. The bail form promulgated would have to state the requirements for setting bail under Article 17.15, include an affirmation that the person setting bail considered all of the information required under the article, and require the signature of the person setting bail. The bill would require the forms to be electronically returned to OCA for inclusion in a database that is publicly accessible on OCA's website.

The bill would amend the Code of Criminal Procedure to regulate charitable organizations that solicit donations from the public for the purpose of posting bail bonds for defendants. The bill would impose certain filing and reporting requirements on such organizations. Under the bill's provisions, a charitable organization would not be able to post the bail for misdemeanor or felony offenders who are charged with or have been previously convicted of certain violent offenses. A sheriff would be able to suspend an organization's ability to post bail bonds if the organization violates a reporting requirement or other mandate of the bill.

The bill would amend Code of Criminal Procedure to expand the rules for fixing the amount of bail. Under the provisions of the bill, a magistrate or court would have to consider a defendant's criminal history and immigration status before setting bail.

The bill would impose educational requirements with respect to setting bail and other magistration duties on magistrates who set bail. The course would be required to be obtained through an accredited school of higher education or a program approved by a court education committee or through a course approved by the State Bar of Texas.

The bill would authorize the use of bail schedules under certain circumstances. Under the bill's provisions, a defendant unable to make bail in an amount required by the bail schedule would be entitled to file a sworn affidavit on a form promulgated by OCA indicating the defendant's financial situation and requesting the magistrate to set an appropriate bail. Defendants filing the affidavit would be entitled to a bail hearing before a magistrate no later than 48 hours after the affidavit was filed. The magistrate would be required to issue oral or written findings of fact supporting his or her bail decision.

The bill would require sheriffs, peace officers, and jailers to obtain a defendant's criminal history prior to accepting bail before appearance before a magistrate. The sheriff, peace officer, or jailer would be prohibited from accepting bail before appearance before a magistrate if the defendant is charged with a violent offense or has been previously convicted of a violent offense.

The bill would amend then Government Code to require county clerks of a court at law to report monthly certain information pertaining to bail bonds to the Texas Office of Court Administration. Under the provisions of the bill, a clerk would have to report the number of bail bonds given for each level of offense, the number and type of bail bonds given, the number of defendants posting bail, the number of defendants failing to reappear after release on bail, and the number of defendants committing new offenses while on bail.

The bill would take effect September 1, 2021.

## **Methodology**

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

This analysis assumes funding would be needed for one-time development and licensing costs of \$850,000 in fiscal year 2022 to modify OCA's court activity reporting database, a legacy information technology system, to capture the data required under this bill and to develop an electronic system to capture and publicize the bail forms that are required to be submitted to OCA.

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.

Based on the analysis of the OCA, it is assumed that duties and responsibilities associated with developing bail forms and procedures could be accomplished utilizing existing resources. Based on analysis provided by DPS, it is assumed that duties and responsibilities associated with developing training courses could be accomplished utilizing existing resources.

### **Technology**

Funding in fiscal year 2022 totaling \$500,000 would be needed to modify OCA's court activity reporting database. Funding in fiscal year 2022 totaling \$350,000 would be needed for OCA to develop a system to capture and publicize the electronically submitted bail forms.

### **Local Government Impact**

According to OCA, The bill may also result in increased costs to local governments to house inmates who may be unable to make bail without access to personal bonds or may be delayed in making bail until subsequent hearings. The cost will vary from county to county depending on arrestees unable to make bail. Requiring more detailed statistical information to be submitted to OCA may result in a cost to modify local court case management systems, but those costs will depend on contractual agreements between counties and vendors and will vary by county. Therefore, there may be an indeterminate fiscal impact to local government.

**Source Agencies:** 212 Office of Court Admin, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, MW, BH, SLE, SD, AF