

House Bill 20
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HOUSE VERSION

SECTION 1. This Act may be cited as the Damon Allen Act.

SECTION 2. Article 1.07, Code of Criminal Procedure, is amended to read as follows:

Art. 1.07. RIGHT TO BAIL. Except as provided by this article or by Chapter 17, any person [All prisoners] shall be eligible for bail [bailable] unless denial of bail is expressly permitted by the Texas Constitution [for capital offenses when the proof is evident]. This provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

SECTION 3. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.021, 17.022, 17.023, 17.024, and 17.028 to read as follows:

Art. 17.021. PUBLIC SAFETY REPORT SYSTEM. (a) The Office of Court Administration of the Texas Judicial System shall develop and maintain a validated public safety report system that is standardized for statewide use, that is available for use for purposes of Article 17.15, and that:

(1) is objective, validated for its intended use, and standardized;

(2) is based on an analysis of empirical data and factors relevant to:

(A) the likelihood of a defendant intentionally failing to appear in court as required; and

(B) the safety of the community, law enforcement, and the victim of the alleged offense if the defendant is released;

(3) does not consider factors that disproportionately affect persons who are members of racial or ethnic minority groups or who are socioeconomically disadvantaged;

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No equivalent provision.

SECTION __. Article 1.07, Code of Criminal Procedure, is amended to read as follows:

Art. 1.07. RIGHT TO BAIL. Any person [All prisoners] shall be eligible for bail [bailable] unless denial of bail is expressly permitted by the Texas Constitution or by Chapter 17 [for capital offenses when the proof is evident]. This provision may [shall] not be [so] construed [as] to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.
[FA2(1)]

No equivalent provision.

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(4) has been demonstrated to produce results that are unbiased with respect to the race or ethnicity of defendants and does not produce a disproportionate outcome; and
(5) is designed to function in a transparent manner with respect to the public and each defendant with respect to whom a public safety report is prepared.
(b) The office shall provide access to the public safety report system to the appropriate officials in each county at no cost. This subsection may not be construed to require the office to provide a county official or magistrate with any equipment or support related to accessing or using the public safety report system.
(c) The office shall collect data relating to the use and efficiency of the public safety report system. The office shall consider that data, along with other relevant information, and shall, not later than November 1 of each even-numbered year, make appropriate changes or updates to the public safety report system to ensure compliance with this article. Not later than December 1 of each even-numbered year, the office shall submit a report containing the data collected and describing any changes or updates made to the public safety report system to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary.
(d) The office shall create and post on the office's public Internet website a sample result that could occur through the use of the public safety report system and shall include an explanation of the data used for preparing a public safety report.
Art. 17.022. PUBLIC SAFETY REPORT. (a) A magistrate considering the release on bail of a defendant charged with

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an offense punishable as a Class B misdemeanor or any higher category of offense shall order that:

(1) the personal bond office established under Article 17.42 for the county in which the defendant is being detained, or other suitably trained person, use the validated public safety report system developed under Article 17.021 to prepare a public safety report, or another public safety report approved by the Office of Court Administration of the Texas Judicial System, with respect to the defendant; and

(2) the public safety report prepared under Subdivision (1) be provided to the magistrate as soon as practicable but not later than 48 hours after the defendant's arrest.

(b) A magistrate may not, without the consent of the sheriff, order a sheriff or sheriff's department personnel to prepare a public safety report under Subsection (a).

(c) Notwithstanding Subsection (a), a magistrate may personally prepare a public safety report before or while making a bail decision using the validated public safety report system developed under Article 17.021.

(d) The magistrate shall consider the public safety report before making a bail decision.

Art. 17.023. AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES. (a) This article applies only to a defendant charged with an offense that is:

(1) punishable as a felony; or

(2) a misdemeanor punishable by confinement.

(b) Notwithstanding any other law, a defendant to whom this article applies may be released on bail only by a magistrate who is:

(1) a resident of this state and one of the counties served by the magistrate; and

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(2) in compliance with the training requirements of Article 17.024.

(c) A magistrate is not eligible to release on bail a defendant described by Subsection (a) if the magistrate:

(1) has been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the magistrate's court; or

(2) has resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct have been instituted as provided by Section 33.022, Government Code, and before final disposition of the proceedings.

Art. 17.024. TRAINING ON DUTIES REGARDING BAIL. (a) The Office of Court Administration of the Texas Judicial System shall, in consultation with the court of criminal appeals, develop or approve training courses regarding a magistrate's duties, including duties under Article 17.022 and duties with respect to setting bail in criminal cases. The courses developed must include:

(1) a 16-hour initial training course; and

(2) a four-hour continuing education course.

(b) The office shall provide for a method of certifying that a magistrate has successfully completed a training course required under this article and has demonstrated competency of the course content in a manner acceptable to the office.

(c) A magistrate is in compliance with the training requirements of this article if:

(1) not later than the 90th day after the date the magistrate takes office, the magistrate successfully completes the course described by Subsection (a)(1);

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<p><u>(2) the magistrate successfully completes the course described by Subsection (a)(2) in each subsequent state fiscal biennium in which the magistrate serves; and</u></p> <p><u>(3) the magistrate demonstrates competency in a manner acceptable to the office.</u></p> <p><u>(c-1) Notwithstanding Subsection (c), a magistrate who is serving on December 1, 2021, is considered to be in compliance with Subsection (c)(1) if the magistrate successfully completes the training course not later than June 1, 2022. This subsection expires January 1, 2023.</u></p> <p><u>(d) Any course developed or approved by the office under this article may be administered by the Texas Justice Court Training Center, the Texas Municipal Courts Education Center, the Texas Association of Counties, the Texas Center for the Judiciary, or a similar entity.</u></p> <p><u>Art. 17.028. BAIL DECISION. (a) Without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order, after individualized consideration of all circumstances and of the factors required by Article 17.15, that the defendant be:</u></p> <p><u>(1) granted personal bond with or without conditions;</u></p> <p><u>(2) granted monetary bond with or without conditions; or</u></p> <p><u>(3) denied bail in accordance with the Texas Constitution and other law.</u></p> <p><u>(b) In making a bail decision under this article, the magistrate shall impose, as applicable, the least restrictive conditions, if any, and minimum amount of bail, if any, whether personal bond or monetary bond, necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.</u></p>		

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<p><u>(c) In each criminal case, unless specifically provided by other law, there is a rebuttable presumption that bail, conditions of release, or both bail and conditions of release are sufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense. For purposes of setting bail or rebutting the presumption, the court is not required to hold an evidentiary hearing.</u></p> <p><u>(d) A judge may not adopt a bail schedule or enter a standing order related to bail that:</u></p> <p><u>(1) is inconsistent with this article; or</u></p> <p><u>(2) authorizes a magistrate to make a bail decision for a defendant without considering the factors in Article 17.15.</u></p> <p><u>(e) A defendant who is denied bail or who is unable to give bail in the amount required by any bail schedule or standing order related to bail shall be provided with the warnings described by Article 15.17.</u></p> <p><u>(f) A defendant who is unable to give bail in an amount required by any bail schedule or standing order related to bail may file with the applicable magistrate a sworn affidavit declaring the maximum amount that the defendant would be able to pay or provide as security within 24 hours of arrest for purposes of obtaining a bail bond. The affidavit must set out sufficient facts to clearly establish that amount, given the totality of the defendant's circumstances.</u></p> <p><u>(g) A defendant who files an affidavit under Subsection (f) is entitled to a hearing before the magistrate on the bail amount. At the hearing or a review, the magistrate shall consider the facts stated in the affidavit and the rules established by Article 17.15 and set the defendant's bail. The magistrate may deviate from any bail schedule or standing</u></p>		

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order related to bail in setting a defendant's bail under this subsection. The magistrate shall issue oral or written findings of fact supporting the decision.

(h) This article does not prohibit a sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, from accepting bail under Article 17.20 or 17.22 before a public safety report has been prepared with respect to the defendant or before a bail decision has been made by a magistrate under this article.

(i) In making a bail decision under this article, a magistrate may direct either of the following to monitor the defendant's compliance with a condition of bond set by the magistrate:

(1) the personal bond office established under Article 17.42 for the county in which the defendant is being detained; or

(2) the community supervision and corrections department established under Section 76.002, Government Code, for the county in which the defendant is being detained.

No equivalent provision.

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.027 to read as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH OFFENSE COMMITTED WHILE ON BAIL. Notwithstanding any other law, if a defendant is charged with committing an offense while released on bail for another offense, only the court before whom the case for the previous offense is pending may release the defendant on bail. The defendant must be presented to the court within the period prescribed by Article 15.17, either in person or by means of videoconference, in accordance with that article.

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SECTION 4. Article 17.03, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

- (b) Only the court before whom the case is pending may release on personal bond a defendant who:
- (1) is charged with an offense under the following sections of the Penal Code:
- (A) ~~Section 19.03 (Capital Murder);~~
~~[(B)]~~ Section 20.04 (Aggravated Kidnapping);
~~(B) [(C) Section 22.021 (Aggravated Sexual Assault);~~
~~[(D) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant);~~
~~[(E)]~~ Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
~~(C) [(F)]~~ Section 29.03 (Aggravated Robbery);
~~(D) [(G)]~~ Section 30.02 (Burglary); or
~~(E) [(H)]~~ Section 71.02 (Engaging in Organized Criminal Activity);
~~[(I) Section 21.02 (Continuous Sexual Abuse of Young Child or Children); or~~
~~[(J) Section 20A.03 (Continuous Trafficking of Persons);]~~
- (2) is charged with a felony under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code, punishable by imprisonment for a minimum term or by a

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

- ~~(a) Except as provided by Subsection (b),~~ ~~[(a)]~~ ~~(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) Only the court before whom the case is pending may release on personal bond a defendant who:
- (1) is charged with an offense under the following sections of the Penal Code:
- (A) Section 19.03 (Capital Murder);
(B) Section 20.04 (Aggravated Kidnapping);
(C) Section 22.021 (Aggravated Sexual Assault);
(D) ~~[(D) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant);~~
~~[(E)]~~ Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
~~(E) [(F)]~~ Section 29.03 (Aggravated Robbery);
~~(F) [(G)]~~ Section 30.02 (Burglary);
(G) ~~[(H)]~~ Section 71.02 (Engaging in Organized Criminal Activity);
~~(H) [(I)]~~ Section 21.02 (Continuous Sexual Abuse of Young Child or Children); or
(I) ~~[(J)]~~ Section 20A.03 (Continuous Trafficking of Persons);
- (2) is charged with a felony under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code, punishable by imprisonment for a minimum term or by a

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maximum fine that is more than a minimum term or maximum fine for a first degree felony; or
(3) does not submit to testing for the presence of a controlled substance in the defendant's body as requested by the court or magistrate under Subsection (c) of this article or submits to testing and the test shows evidence of the presence of a controlled substance in the defendant's body.

(b-2) Notwithstanding any other law, a defendant may not be released on personal bond if the defendant is charged with an offense under the following provisions of the Penal Code:
(1) Section 19.02 (Murder);
(2) Section 19.03 (Capital Murder);
(3) Section 20A.02 (Trafficking of Persons);
(4) Section 20A.03 (Continuous Trafficking of Persons);
(5) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);
(6) Section 21.11 (Indecency with a Child);
(7) Section 22.021 (Aggravated Sexual Assault);
(8) Section 43.04 (Aggravated Promotion of Prostitution), if the defendant is not alleged to have engaged in conduct constituting an offense under Section 43.02(a);
(9) Section 43.05 (Compelling Prostitution); or
(10) Section 43.25 (Sexual Performance by a Child).

No equivalent provision. *(But see Subsection (b-2) above.)*

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maximum fine that is more than a minimum term or maximum fine for a first degree felony; or
(3) does not submit to testing for the presence of a controlled substance in the defendant's body as requested by the court or magistrate under Subsection (c) of this article or submits to testing and the test shows evidence of the presence of a controlled substance in the defendant's body.

No equivalent provision. *(But see Subsection (b-2) below and SECTION 4 below adding Article 17.15(b).)*

(b-2) A magistrate may not release on personal bond a defendant who:
(1) is charged with committing an offense while released on bail or community supervision for an offense involving violence, as defined by Article 17.15(b); or
(2) has previously been convicted of an offense involving violence, as defined by Article 17.15(b).

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No equivalent provision.

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SECTION 3. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.0501, 17.0502, and 17.071 to read as follows:

Art. 17.0501. REQUIRED TRAINING. The Department of Public Safety shall develop training courses that relate to the use of the statewide telecommunications system maintained by the department and that are directed to each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under this chapter, as necessary to enable the person to fulfill those requirements.

Art. 17.0502. COMPLETION OF BAIL FORM. (a) Each magistrate, judge, sheriff, peace officer, or jailer shall, at the time the person sets bail for a defendant under this chapter, complete the form promulgated by the Office of Court Administration of the Texas Judicial System under Section 72.036, Government Code.

(b) A person completing a form under this article shall electronically deliver the completed form to the Office of Court Administration of the Texas Judicial System as soon as is practicable.

Art. 17.071. CHARITABLE BAIL ORGANIZATIONS.

(a) In this article, "charitable bail organization" means a person who solicits donations from the public for the purpose of depositing money with a court in the amount of a defendant's bail bond. The term does not include:

(1) a person soliciting donations with respect to a defendant who is a member of the person's family, as determined under Section 71.003, Family Code; or

(2) a nonprofit corporation organized for the purpose of religious worship.

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(b) This article does not apply to a charitable bail organization that pays a bail bond for not more than three defendants in any 180-day period.

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

(d) A charitable bail organization may only pay bail bonds for indigent defendants who:

(1) are not charged with an offense involving violence, as defined by Article 17.15(b); and

(2) have not previously been convicted of an offense involving violence, as defined by Article 17.15(b).

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

(1) the name of the defendant;

(2) the cause number of the case;

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

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

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

(g) A sheriff may suspend a charitable bail organization from paying bail bonds in the sheriff's county for one year if

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the sheriff determines the organization has paid bonds in violation of this article.
(h) Chapter 22 applies to a bail bond paid by a charitable bail organization.
(i) A charitable bail organization may not accept a premium or compensation for paying a bail bond for a defendant.

SECTION 5. Article 17.15, Code of Criminal Procedure, is amended to read as follows:

SECTION 4. Article 17.15, Code of Criminal Procedure, is amended to read as follows:

Art. 17.15. RULES FOR SETTING ~~[FIXING]~~ AMOUNT OF BAIL.

Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL.

(a) The amount of bail and the associated conditions of bail to be required in any case are [is] to be regulated by the court, judge, magistrate, or officer taking the bail in accordance with Articles 17.20, 17.21, and 17.22 and [; they] are [to be] governed [in the exercise of this discretion] by the Constitution and [by] the following rules:

(a) The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

(1) [1-] The amount of bail, if any, and associated conditions of bail, if any, shall be sufficient [sufficiently high] to give reasonable assurance that the undertaking will be complied with.

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

(2) [2-] The power to require bail is not to be so used as to make it an instrument of oppression.

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

(3) [3-] The nature of the offense, [and] the circumstances under which the offense [it] was committed, and the defendant's criminal history, including acts of family

3. The nature of the offense and the circumstances under which it was committed are to be considered, including

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<u>violence, shall [are to] be considered, except that a misdemeanor or an offense under Chapter 481, Health and Safety Code, that occurred more than 10 years before the current offense may not be considered unless the previous offense involved the manufacture or delivery of a controlled substance or caused bodily injury, as defined by Section 1.07, Penal Code, to another, or unless good cause otherwise exists for considering that offense.</u>	<u>whether the offense is an offense involving violence and whether the violence was directed against a peace officer.</u>	
<u>(4) [4.] The ability to make bail shall [is to] be considered [regarded], and proof may be taken upon this point.</u>	4. The ability to make bail <u>is to be regarded</u> , and proof may be taken upon this point.	
<u>(5) [5.] The future safety of a victim of the alleged offense, law enforcement, and the community shall be considered.</u>	5. The future safety of a victim of the alleged offense and the community shall be considered.	
<u>(6) Any public safety report prepared using the validated public safety report system developed under Article 17.021 shall be considered.</u>	No equivalent provision.	
<u>(7) Any other relevant facts or circumstances may be considered.</u>	No equivalent provision.	
No equivalent provision.		
No equivalent provision.		
<u>(b) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.</u>	<u>6. The criminal history of the defendant, including any other pending criminal charges and any instances in which the defendant failed to appear in court following release on bail, is to be considered.</u>	
	<u>7. The citizenship status of the defendant is to be considered.</u>	
	No equivalent provision.	

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No equivalent provision. (But see SECTION 4 above adding Article 17.03(b-2).)

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(b) In this article, "offense involving violence" means an offense under the following sections of the Penal Code:
(1) Section 19.02 (murder);
(2) Section 19.03 (capital murder);
(3) Section 20.03 (kidnapping);
(4) Section 20.04 (aggravated kidnapping);
(5) Section 20A.03 (continuous trafficking of persons);
(6) Section 21.02 (continuous sexual abuse of young child or children);
(7) Section 21.11 (indecent with a child);
(8) Section 22.01(a)(1) (assault), if the offense:
(A) involved family violence as defined by Section 71.004, Family Code; or
(B) is punishable as a felony of the second degree under Subsection (b-2) of that section (assault of a peace officer or judge);
(9) Section 22.011 (sexual assault);
(10) Section 22.02 (aggravated assault);
(11) Section 22.021 (aggravated sexual assault);
(12) Section 22.04 (injury to a child, elderly individual, or disabled individual);
(13) Section 25.072 (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);
(14) Section 25.11 (continuous violence against the family);
(15) Section 29.03 (aggravated robbery); or
(16) Section 38.14 (taking or attempting to take weapon from peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer).

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No equivalent provision.

SECTION 6. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.50, 17.51, and 17.52 to read as follows:

Art. 17.50. NOTICE OF CONDITIONS. (a) As soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing a condition previously imposed, the clerk of the court shall send a copy of the order to:

(1) the appropriate attorney representing the state; and

(2) either:

(A) the chief of police in the municipality where the defendant resides, if the defendant resides in a municipality;

or

(B) the sheriff of the county where the defendant resides, if the defendant does not reside in a municipality.

(b) A clerk of the court may delay sending a copy of the order under Subsection (a) only if the clerk lacks information necessary to ensure service and enforcement.

(c) If an order described by Subsection (a) prohibits a defendant from going to or near a child care facility or school, the clerk of the court shall send a copy of the order to the child care facility or school.

(d) The copy of the order and any related information may be sent electronically or in another manner that can be accessed by the recipient.

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(c) For purposes of determining whether clear and convincing evidence exists to deny a person bail under Section 11d, Article I, Texas Constitution, a magistrate shall consider all information relevant to the factors listed in Subsection (a). [FA2(2)]

No equivalent provision.

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(e) The magistrate or the magistrate's designee shall provide written notice to the defendant of:

- (1) the conditions of release on bond; and
- (2) the penalties for violating a condition of release.

(f) The magistrate shall make a separate record of the notice provided to the defendant under Subsection (e).

(g) The Office of Court Administration of the Texas Judicial System shall promulgate a form for use by a magistrate in providing notice to the defendant under Subsection (e). The form must include the relevant statutory language from the provisions of this chapter under which a condition of release on bond may be imposed on a defendant.

Art. 17.51. REPORTING OF CONDITIONS. A chief of police or sheriff who receives a copy of an order under Article 17.50(a), or the chief's or sheriff's designee, shall, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove information, as appropriate.

Art. 17.52. PROCEDURES AND FORMS RELATED TO CASH BAIL BOND. The Office of Court Administration of the Texas Judicial System shall develop statewide procedures and prescribe forms to be used by a court to facilitate:

- (1) the refund of a cash bail bond, with an emphasis on refunding the bail bond to the person in whose name the receipt described by Article 17.02 was issued; and
- (2) the application of a cash bail bond paid by a person other than a defendant to the defendant's outstanding court costs and fees.

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<p>SECTION 7. (a) Article 17.02, Code of Criminal Procedure, is amended to read as follows:</p> <p>Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article shall be receipted for by the officer receiving the funds and, on order of the court, be refunded in the amount shown on the face of the receipt less the administrative fee authorized by Section 117.055, Local Government Code, <u>if applicable</u>, after the defendant complies with the conditions of the defendant's bond, to:</p> <p>(1) any person in the name of whom a receipt was issued, including the defendant if a receipt was issued to the defendant; or</p> <p>(2) the defendant, if no other person is able to produce a receipt for the funds.</p> <p>(b) Section 117.055, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:</p> <p>(a) <u>Except as provided by Subsection (a-1), to</u> [Tø] compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed</p>	<p>No equivalent provision.</p>	

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\$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

(a-1) A clerk may not deduct a fee under Subsection (a) from a withdrawal of funds generated by the collection of a cash bond or cash bail bond if in the case for which the bond was taken:

(1) the defendant was found not guilty after a trial or appeal;

or

(2) the complaint, information, or indictment was dismissed without a plea of guilty or nolo contendere being entered.

(a-2) On the request of a person to whom withdrawn funds generated by the collection of a cash bond or cash bail bond were disbursed, the clerk shall refund to the person the amount of the fee deducted under Subsection (a) if:

(1) subsequent to the deduction, a court makes or enters an order or ruling in the case for which the bond was taken; and

(2) had the court made or entered the order or ruling before the withdrawal of funds occurred, the deduction under Subsection (a) would have been prohibited under Subsection (a-1).

(c) Section 117.055, Local Government Code, as amended by this section, applies only to a withdrawal of funds from a court registry under Section 117.055, Local Government Code, made on or after September 1, 2021. A withdrawal of funds from a court registry made before September 1, 2021, is governed by the law in effect on the date the withdrawal was made, and the former law is continued in effect for that purpose.

(d) This section takes effect September 1, 2021.

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No equivalent provision.

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SECTION 5. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.1501 and 17.1502 to read as follows:

Art. 17.1501. CONTINUING EDUCATION. (a) A judge or magistrate with the authority to set bail for defendants shall, within one year after the date the judge or magistrate first assumes office, successfully complete a four-hour course with respect to the judge's or magistrate's duties under Article 15.17 and setting bail in criminal cases.

(b) Each following year, a judge or magistrate described by Subsection (a) shall successfully complete a two-hour course with respect to the judge's or magistrate's duties under Article 15.17 and setting bail in criminal cases.

(c) The courses may be completed through a course in bail bond law that is:

(1) approved by the State Bar of Texas; and

(2) offered:

(A) by a public or accredited private institution of higher education in this state; or

(B) through a program approved by a court education committee.

Art. 17.1502. BAIL SCHEDULE; HEARING. (a) The judges of the courts trying criminal cases in a county may promulgate a standing order setting out a schedule of suggested bail amounts for any offense over which the courts have jurisdiction under Chapter 4.

(b) A standing order promulgated in accordance with this article must require that the factors under Article 17.15 be considered before a defendant's bail is set.

(c) If a defendant claims to be unable to give bail in the amount required by the schedule, the magistrate or an employee of the court or of the county in which the defendant

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is confined must verify the ability of a defendant to give bail in the amount required by the schedule and shall explain to the defendant the nature and significance of the verification process required by this subsection. A defendant who claims to be unable to give bail in the amount required by the schedule may file with the applicable magistrate a sworn affidavit in substantially the following form: [FA1(1)]

"On this ____ day of ____, 20 ____, I have been advised by the (name of the court) Court of the importance of providing true and complete information about my financial situation in connection with the charge pending against me. I am without means to pay ____ and I hereby request the court to set an appropriate bail. (signature of defendant)."

(d) A defendant filing an affidavit under Subsection (c) shall complete a form to allow a magistrate to assess information relevant to the defendant's financial situation. The form must be the form used to request appointment of counsel under Article 26.04 or a form promulgated by the Office of Court Administration of the Texas Judicial System that collects, at a minimum, the following information: [FA1(2)]

(1) any income received by the defendant and the defendant's spouse in the preceding two years;

(2) the defendant's employment history and the employment history of the defendant's spouse, including gross monthly pay, for the preceding two years;

(3) any cash holdings available to the defendant or the defendant's spouse and the financial institution in which the cash is held;

(4) the defendant's major non-cash assets, including real estate and motor vehicles;

(5) money owed to the defendant or to the defendant's spouse;

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(6) any dependents of the defendant or of the defendant's spouse, and the dependents' ages;

(7) an itemized estimate of the defendant's monthly expenses;

(8) an estimate of the defendant's tax and legal expenses;

(9) any anticipated major changes in the defendant's income or expenses; and

(10) any additional relevant information the defendant is able to provide to explain the defendant's inability to pay bail according to the schedule.

(e) A defendant who is unable to give bail in the amount required by the schedule and who files an affidavit under Subsection (c) is entitled to a hearing before the magistrate on the bail amount. The hearing must be held not later than 48 hours after the defendant is arrested. At the hearing, the defendant must be given the opportunity to present evidence and respond to evidence presented by the attorney representing the state. After the hearing, the magistrate shall consider the facts presented by the defendant and the rules established by Article 17.15 and shall set the defendant's bail. If the magistrate does not set the defendant's bail in an amount below the amount required by the schedule, the magistrate shall issue written findings of fact supporting the bail decision. [FA1(3);FA1(4)]

(f) A defendant whose bail is not set as described by Subsection (e) in an amount below the amount required by the schedule is entitled to a bail review hearing in the court before whom the case is pending. The bail review hearing must be held not later than 48 hours after the conclusion of the hearing under Subsection (e).

(g) A defendant may be released without paying bail as required by the schedule if:

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(1) in a bail review hearing conducted under Subsection (f) the court determines that the findings of fact issued under Subsection (e) do not support the bail decision; or
(2) a bail review hearing required under Subsection (f) is not conducted within the period required by that subsection.
(h) The judges of the courts trying criminal cases in a county must report to the Office of Court Administration of the Texas Judicial System each defendant for whom a hearing under Subsection (e) was not held within 48 hours of the defendant's arrest. If a delay occurs that will cause the hearing under Subsection (e) to be held later than 48 hours after the defendant's arrest, the magistrate or an employee of the court or of the county in which the defendant is confined must explain the reason for the delay to the defendant's counsel and, if applicable, to the defendant's spouse or closest living relative.
(i) The magistrate may enter an order or take other action authorized by Article 16.22 with respect to a defendant who does not appear competent to execute an affidavit under Subsection (c). [FA1(4)]

SECTION 6. Article 17.20, Code of Criminal Procedure, is amended to read as follows:
Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of misdemeanor, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, may, whether during the term of the court or in vacation, where the officer has a defendant in custody, take of the defendant a bail bond.
(b) Before taking a bail bond under this article, the sheriff, peace officer, or jailer shall obtain the defendant's criminal history record information through the statewide

No equivalent provision.

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telecommunications system maintained by the Department of Public Safety. If the defendant is charged with an offense involving violence or has previously been convicted of an offense involving violence, the sheriff, officer, or jailer may not set the amount of the defendant's bail but may take of the defendant a bail bond in the amount fixed by the court. For purposes of this subsection, "offense involving violence" has the meaning assigned by Article 17.15(b).

SECTION 7. Article 17.22, Code of Criminal Procedure, is amended to read as follows:

Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case, if the court before which the case ~~[same]~~ is pending is not in session in the county where the defendant is in custody, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, who has the defendant in custody may take the defendant's bail bond in the ~~[such]~~ amount ~~[as may have been]~~ fixed by the court or magistrate, or if no amount has been fixed, then in any ~~[such]~~ amount as the ~~[such]~~ officer considers ~~[may consider]~~ reasonable.

(b) Before taking a bail bond under this article, the sheriff, peace officer, or jailer shall obtain the defendant's criminal history record information through the statewide telecommunications system maintained by the Department of Public Safety. If the defendant is charged with an offense involving violence or has previously been convicted of an offense involving violence, the sheriff, officer, or jailer may not set the amount of the defendant's bail but may take of the defendant a bail bond in the amount fixed by the court. For purposes of this subsection, "offense involving violence" has the meaning assigned by Article 17.15(b).

No equivalent provision.

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No equivalent provision.	<p>SECTION 8. Section 27.005, Government Code, is amended to read as follows:</p> <p>Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes of removal under Chapter 87, Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:</p> <p>(1) within one year after the date the justice is first elected;</p> <p><u>(A) [5] an 80-hour course in the performance of the justice's duties; and</u></p> <p><u>(B) the course described by Article 17.1501(a), Code of Criminal Procedure; and</u></p> <p>(2) each following year:</p> <p><u>(A) [5] a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters; and</u></p> <p><u>(B) the course described by Article 17.1501(b), Code of Criminal Procedure.</u></p> <p><u>(b) The courses described by Subsections (a)(1)(A) and (a)(2)(A) may be completed in an accredited state-supported school of higher education.</u></p>	
No equivalent provision.	<p>SECTION 9. Subchapter C, Chapter 71, Government Code, is amended by adding Section 71.0351 to read as follows:</p> <p><u>Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a) As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System under Section 71.035, the clerk of each court setting bail in criminal cases shall report:</u></p> <p><u>(1) the number of defendants for whom bail was set, including:</u></p>	

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(A) the number for each category of offense; and
(B) the number of personal bonds;
(2) the number of defendants who posted bail;
(3) the number of defendants released on bail who
subsequently failed to appear or violated a condition of
release; and
(4) the number of defendants who committed an offense
while released on bail or community supervision.
(b) The Office of Court Administration of the Texas Judicial
System shall post the information in a publicly accessible
place on the agency's Internet website without disclosing any
personal information of any defendant, judge, or magistrate.

SECTION 10. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.036 to read as follows:

Sec. 72.036. BAIL FORM. (a) The office shall promulgate
a form to be completed each time a magistrate, judge, sheriff,
peace officer, or jailer sets a defendant's bail under Chapter
17, Code of Criminal Procedure.

(b) The form must:

(1) state the requirements for setting bail under Article
17.15, Code of Criminal Procedure;

(2) require the person setting bail to certify that the person
considered all of the information required under that article;
and

(3) be signed by the person setting the bail.

(c) The office shall publish each form submitted under
Article 17.0502, Code of Criminal Procedure, in a database
that is publicly accessible on the office's Internet website.

No equivalent provision.

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No equivalent provision.	<p>SECTION 11. Article 66.102(c), Code of Criminal Procedure, is amended to read as follows:</p> <p>(c) Information in the computerized criminal history system relating to an arrest must include:</p> <ul style="list-style-type: none">(1) the offender's name;(2) the offender's state identification number;(3) the arresting law enforcement agency;(4) the arrest charge, by offense code and incident number;(5) whether the arrest charge is a misdemeanor or felony;(6) the date of the arrest;(7) <u>for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court;</u>(8) the exact disposition of the case by a law enforcement agency following the arrest; and(9) [(8)] the date of disposition of the case by the law enforcement agency.	
<p>SECTION 8. As soon as practicable but not later than December 1, 2021, the Office of Court Administration of the Texas Judicial System shall create and provide access to the appropriate officials in each county the validated public safety report system developed under Article 17.021, Code of Criminal Procedure, as added by this Act, and any related forms and materials, at no cost. If those items are made available before December 1, 2021, the office shall notify each court clerk, judge or other magistrate, and office of an attorney representing the state.</p>	No equivalent provision.	
<p>SECTION 9. (a) As soon as practicable but not later than December 1, 2021, the Office of Court Administration of the Texas Judicial System shall:</p>	No equivalent provision.	

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<p>(1) promulgate the form required by Article 17.50(g), Code of Criminal Procedure, as added by this Act; and</p> <p>(2) develop or approve and make available the training courses and certification method as described by Article 17.024, Code of Criminal Procedure, as added by this Act, and develop the procedures and prescribe the forms required by Article 17.52, Code of Criminal Procedure, as added by this Act.</p> <p>(b) If the items described by Subsection (a) of this section are made available before December 1, 2021, the office shall notify each court clerk, judge or other magistrate, and office of an attorney representing the state.</p> <p>No equivalent provision.</p>	<p>SECTION 12. A judge or magistrate who is serving on the effective date of this Act must complete the judge's or magistrate's:</p> <p>(1) initial training under Article 17.1501(a), Code of Criminal Procedure, as added by this Act, not later than September 1, 2022; and</p> <p>(2) first required course under Article 17.1501(b), Code of Criminal Procedure, as added by this Act, not later than September 1, 2023.</p> <p>SECTION 13. Same as House version.</p> <p>SECTION 14. Effective date. [Deleted by FA2(3)]</p>	
<p>SECTION 10. The changes in law made by this Act apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.</p> <p>No equivalent provision.</p>		

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<p>SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect December 1, 2021.</p> <p>(b) Articles 17.021 and 17.024, Code of Criminal Procedure, as added by this Act, and Sections 8 and 9 of this Act take effect September 1, 2021.</p>	<p>SECTION __. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.</p> <p>(b) Article 17.15(c), Code of Criminal Procedure, as added by this Act, takes effect December 1, 2021, but only if the constitutional amendment proposed by the 87th Legislature, Regular Session, 2021, authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons is approved by the voters. If that amendment is not approved by the voters, Article 17.15(c), Code of Criminal Procedure, has no effect. [FA2(3)]</p>	