

House Joint Resolution 4
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. Article I, Texas Constitution, is amended by adding Section 11d to read as follows:

Sec. 11d. (a) A person accused of committing a violent or sexual offense, or of committing continuous trafficking of persons, may be denied bail pending trial if a judge or magistrate determines by clear and convincing evidence that requiring bail and conditions of release is insufficient to reasonably ensure:

(1) the person's appearance in court as required; or
(2) the safety of the community, law enforcement, or the victim of the alleged offense.

(b) A judge or magistrate who denies a person bail in

SENATE VERSION (IE)

SECTION __.Section 11, Article I, Texas Constitution, is amended to read as follows:

Sec. 11. (a) All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but 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.

(b) In making a bail decision, a judge or magistrate shall impose the least restrictive conditions, if any, and amount of bail, if any, necessary to reasonably ensure the accused person's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense. [FA1(1)]

SECTION 1. Article I, Texas Constitution, is amended by adding Section 11d to read as follows:

Sec. 11d. (a) A person who is charged with a first degree felony; or, a person who is charged with a violent offense or continuous trafficking of persons and (1) has been previously been convicted of a violent or sexual offense; (2) is under information or indictment for another violent or sexual offense or charge of continuous trafficking of persons; or (3) has previously been convicted of a first-degree felony may be denied bail pending trial if a judge or magistrate determines by clear and convincing evidence that requiring bail and conditions of release is insufficient to reasonably ensure:
[FA1(2)]

(1) the person's appearance in court as required; or
(2) the safety of the community, law enforcement, or the victim of the alleged offense.

(b) A judge or magistrate who denies a person bail in

CONFERENCE

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accordance with this section shall prepare a written order that includes findings of fact and a statement explaining the judge or magistrate's reason for the denial.

(c) This section may not be construed to:

(1) limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or

(2) require any hearing or procedure before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

(d) In this section, "violent offense" and "sexual offense" have the meanings assigned by Section 11a of this article.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 2021. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons."

SENATE VERSION (IE)

accordance with this section shall prepare a written order that includes findings of fact and a statement explaining the judge or magistrate's reason for the denial.

(c) This section may not be construed to:

(1) limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or

(2) require any hearing or procedure before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

(d) For purposes of determining whether clear and convincing evidence exists to deny a person bail as described by this section, a judge or magistrate shall consider the factors required to be considered by a judge or magistrate in setting bail under general law, including statutory law governing criminal procedure.

(e) In this section, "violent offense" and "sexual offense" have the meanings assigned by Section 11a of this article.

[FA1(3)]

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 2021. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment requiring a judge or magistrate to impose the least restrictive conditions and amount of bail necessary and authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons." [FA1(4)]

CONFERENCE