

## **BILL ANALYSIS**

Senate Research Center  
88R8595 CJD-D

S.B. 1010  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Over the last few years, there has been an alarming trend across the country – repeat offenders being let out on little to no bail. While this is concerning at all levels of crime, it is particularly alarming when those being let loose are victimizing children in heinous ways.

The concern regarding bail denial is always one of due process. The concept of "innocent until proven guilty" is one of the most remarkable and vital aspects of the American criminal justice system. It is therefore justifiable that courts are wary of every denying bail. It should only happen in the most egregious of circumstances when the defendant has proven themselves to be a danger to the community.

This is one of those egregious circumstances. S.B. 1010 and S.J.R. 51 address a very narrow and very specific subsection of defendants: those who were charged with trafficking or a sexual crime on a child, released on bail, and then proceeded to commit yet another heinous trafficking or sexual crime on a child while released on bail. Such despicable behavior is proof that the conditions of bail release are not sufficient to protect society from this individual, and bail should therefore be denied.

S.B. 1010:

In Texas, we protect our most vulnerable. Therefore, when an individual has shown themselves to be a danger to society by repeatedly victimizing children in heinous ways, we cannot allow these offenders to continue to have access to the children of our state.

S.B. 1010 and S.J.R. 51 will amend the Texas Constitution to deny bail to those who, while out on bail for a charge of trafficking or sexual assault on a minor, are rearrested for a new charge of a similar offense.

Such a denial shall only happen after a judge determines that the defendant committed the secondary offense by a preponderance of the evidence in a preliminary hearing.

As proposed, S.B. 1010 amends current law relating to requiring the denial of bail to a person accused of committing certain trafficking or sexual offenses against a child while released on bail for committing a similar offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.154, as follows:

Art. 17.154. DENIAL OF BAIL FOR COMMISSION OF TRAFFICKING OR SEXUAL OFFENSE AGAINST A CHILD WHILE ON BAIL FOR COMMITTING SIMILAR

OFFENSE. (a) Provides that this article applies to a defendant charged with an offense under any of the following provisions of the Penal Code:

(1) Section 20.04(a)(4) (relating to an offense committed if a person knowingly abducts another person with the intent to inflict bodily injury or to violate or abuse sexually), if committed against a child younger than 17 years of age and the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) Section 20A.02(a)(5) (relating to an offense committed if a person traffics a child with the intent that the trafficked child engage in forced labor or services), (6) (relating to an offense committed if a person receives a benefit from participating in a venture that involves the trafficking a child), (7) (relating to an offense committed if a person traffics a child and causes the child to become a victim of certain prohibited conduct), or (8) (relating to an offense committed if a person receives a benefit from participating in a venture that involves child trafficking or engages in sexual conduct with a trafficked child);

(3) Section 20A.03 (Continuous Trafficking of Persons), if based partly or wholly on conduct that constitutes an offense described by Subdivision (2);

(4) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), involving a victim described by Subsection (b)(2)(A) (relating to an offense committed if the actor is 17 years of age or older and the victim is a child younger than 14 years of age) of that section;

(5) Section 21.11(a)(1) (relating to an offense committed of indecency with a child), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(6) Section 22.011(a)(2) (relating to an offense committed regardless of whether the person knows the age of the child at the time of the offense);

(7) Section 22.021 (Aggravated Sexual Assault), if the actor committed the offense in a manner described by Subsection (a)(1)(B) (relating to an offense committed regardless of whether the person knows the age of the child at the time of the offense) of that section;

(8) Section 30.02 (Burglary), if the offense is punishable under Subsection (d) (relating to providing that a burglary offense is a felony of the first degree under certain conditions) of that section and the actor committed the offense with the intent to commit an offense described by Subdivisions (1), (5), (6), or (7);

(9) Section 43.05(a)(2) (relating to an offense committed if a person knowingly causes a child younger than 18 to commit prostitution); or

(10) Section 43.25 (Sexual Performance by a Child).

(b) Requires a defendant who is accused of committing an offense described by Subsection (a) while released on bail pending trial for another offense described by Subsection (a) to be denied bail pending trial if a judge or magistrate, after a hearing, determines by a preponderance of the evidence that the person committed the offense while on bail.

(c) Requires a judge or magistrate who grants bail to a defendant charged with an offense described by Subsection (a) to admonish the defendant that, if the defendant commits another offense described by Subsection (a) while on bail, the

defendant shall be denied bail pending trial if a judge or magistrate, following a hearing, determines by a preponderance of the evidence that the person committed the offense while on bail.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: December 1, 2023, contingent upon approval by the voters of the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, authorizing the legislature to enact laws providing for the denial of bail to a person accused of committing a trafficking or sexual offense against a child while released on bail for committing a similar offense.