

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1318
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Criminal Justice
3/21/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2021, the legislature passed S.B. 6 overhauling Texas' bail system and drastically increasing the amount of information available to judges when setting bail, along with the amount of statewide data tracked on bail outcomes.

To clarify certain ambiguities and further enhance public safety, S.B. 1318 seeks to address the release practices surrounding habitual and violent offenders and aims to better protect the safety of victims, law enforcement, and our communities. The bill amends the list of offenses that a defendant may not be released on a personal bond, including the creation of an offense for the violation of bond conditions. To assist prosecutors in obtaining appropriate bonds, the bill also creates an additional appeals process and provides access to written findings of fact when "no probable cause" findings are made. Additionally, the bill clarifies which magistrates and judges can set bail for certain defendants. In these cases, notification requirements are clarified to ensure timely movement of cases through the pre-trial process. Lastly, S.B. 1318 creates additional transparency for certain bail boards.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1318 amends current law relating to the release of defendants on bail, the duties of a magistrate in certain criminal proceedings, and the notice provided by peace officers to adult victims of family violence.

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 Article 5.04(c), Code of Criminal Procedure, as follows:

(c) Sets forth the language for a written notice required by Subsection (b) (relating to requiring a peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence to advise any possible adult victim of all reasonable means to prevent further family violence, including giving written notice of a victim's legal rights and remedies).

SECTION 2. Amends Article 15.17, Code of Criminal Procedure, by adding Subsection (h), as follows:

(h) Requires a magistrate, not later than 24 hours after the time the magistrate determines that no probable cause exists to believe that a person committed the offense for which the person was arrested, to make oral or written findings of fact and conclusions of law on the record to support that finding.

SECTION 3. Amends Article 17.021, Code of Criminal Procedure, by adding Subsection (h), as follows:

(h) Requires the Office of Court Administration of the Texas Judicial System, without cost to the county, to allow a county to integrate with the public safety report system the jail records management system and case management system used by the county.

SECTION 4. Amends Article 17.022, Code of Criminal Procedure, by adding Subsection (g), as follows:

(g) Authorizes a magistrate, in the manner described by Article 17.022 (Public Safety Report), to order, prepare, or consider a public safety report in setting bail for a defendant who is not in custody at the time the report is ordered, prepared, or considered.

SECTION 5. Amends the heading to Article 17.027, Code of Criminal Procedure, to read as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE.

SECTION 6. Amends Article 17.027, Code of Criminal Procedure, by amending Subsection (a) and adding Subsections (a-1), (a-2), (c), and (d), as follows:

(a) Provides that, notwithstanding any other law:

(1) makes no changes to this subdivision; and

(2) if a defendant is charged with committing an offense punishable as a felony while released on bail for another pending offense punishable as a felony and the subsequent offense was committed in a different county than the previous offense, electronic notice of the charge is required to be given to the individual designated to receive electronic notices for the county in which the previous offense was committed, not later than the next business day after the date the defendant is charged, for purposes of the court specified by Subdivision (1) (relating to providing that a defendant who is charged with committing another felony offense while released on bail in a pending case for a felony offense in the same county as the previous offense is authorized to be released on bail only by certain courts), rather than promptly given to the court specified in Subdivision (1) for purposes of reevaluating the bail decision, determining whether any bail conditions were violated, or taking any other applicable action such as an action described by Subsection (a-1).

(a-1) Requires the court before which the case for a previous offense is pending, if a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony, to consider whether to revoke or modify the terms of the previous bond or to otherwise reevaluate the previous bail decision.

(a-2) Prohibits a criminal law hearing officer appointed under Chapter 54 (Masters; Magistrates; Referees; Associate Judges), Government Code, from releasing on bail a defendant who meets certain criteria.

(c) Requires the local administrative district judge for each county to designate an individual to receive electronic notices under Subsection (a)(2). Requires the county to ensure that the name and contact information of the individual designated to receive notices under this subsection meets certain criteria.

(d) Requires an individual designated under Subsection (c) who receives an electronic notice under Subsection (a) to promptly provide the notice to the court specified by Subsection (a)(1) and to the attorney representing the state and the defendant's attorney in the pending case for the offense for which the defendant was initially released on bail. Provides that a notice provided under this subsection does not constitute an ex parte communication.

SECTION 7. Amends Article 17.03(b-2), Code of Criminal Procedure, as follows:

(b-2) Prohibits a defendant, except as provided by Articles 15.21 (Release on Personal Bond if Not Timely Demanded), 17.033 (Release on Bond of Certain Persons Arrested Without a Warrant), and 17.151 (Release Because of Delay), from being released on personal bond if the defendant:

(1) is charged with:

(A) creates this paragraph from existing text; or

(B) an offense under:

(i) Section 481.1123, Health and Safety Code (manufacture or delivery of substance in Penalty Group 1-B);

(ii) Section 22.07, Penal Code (terroristic threat);

(iii) Section 25.07, Penal Code (violation of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case); or

(iv) Section 46.04(a), Penal Code (unlawful possession of firearm);
or

(2) deletes existing text prohibiting a defendant from being released on personal bond if the defendant, while released on bail or community supervision for an offense involving violence, is charged with committing an offense under Section 22.07, Penal Code, and makes a nonsubstantive change.

SECTION 8. Amends Article 17.21, Code of Criminal Procedure, as follows:

Art. 17.21. BAIL IN FELONY. (a) Creates this subsection from existing text.

(b) Prohibits a magistrate, notwithstanding Subsection (a) (relating to requiring the court, in a felony case when the accused is in custody of the sheriff or other officer and the court before which the prosecution is pending is in session in the county where the accused is in custody, to fix the amount of bail, if it is a bailable case and determine if the accused is eligible for a personal bond) from releasing on bail a defendant charged with an offense punishable as a felony unless certain criteria are met.

SECTION 9. Amends Articles 44.01(a) and (g), Code of Criminal Procedure, as follows:

(a) Provides that the state is entitled to appeal an order of a court in a criminal case if the order meets certain criteria, including if the order grants bail, in an amount considered insufficient by the prosecuting attorney, to a defendant who is charged with an offense punishable as a felony and who has previously been granted bail for an offense punishable as a felony. Makes nonsubstantive changes.

(g) Provides that the defendant, if the defendant is in custody, is entitled to reasonable bail, as provided by law, unless the appeal is from an order which would:

(1) creates this subdivision from existing text; or

(2) grant bail in an amount considered insufficient by the attorney representing the state, in which event the defendant is required to be held in custody during the pendency of the appeal.

Makes nonsubstantive changes.

SECTION 10. Amends Section 72.038, Government Code, by adding Subsection (b-1) to require a person who releases a defendant on bail under the authority of a standing order related to bail to complete the form required under Section 72.038 (Bail Form).

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: September 1, 2023.