88R7018 MCF-D

By:  Moody H.B. No. 4517

A BILL TO BE ENTITLED

AN ACT

relating to the release of certain defendants on personal bond.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Articles 17.03(a) and (b-2), Code of Criminal Procedure, are amended to read as follows:

(a)  Except as provided by Subsection (b), [~~or~~] (b-1), or (b-2), a magistrate shall [~~may, in the magistrate's discretion,~~] release a [~~the~~] defendant on personal bond without sureties or other security unless the magistrate enters a finding on the record that conditions of release are insufficient 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. This subsection does not apply to a defendant described by Article 17.032(b).

(b-2)  Except as provided by Articles 15.21, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1)  is charged with:

(A)  an offense involving violence; or

(B)  an offense for which an element of the offense involves offensive or provocative sexual contact with another; or

(2)  while released on bail or community supervision for an offense described by Subdivision (1) [~~involving violence~~], is charged with committing:

(A)  any offense punishable as a felony; or

(B)  an offense under the following provisions of the Penal Code:

(i)  Section 22.01(a)(1) (assault);

(ii)  Section 22.05 (deadly conduct);

(iii)  Section 22.07 (terroristic threat); or

(iv)  Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

SECTION 2.  Articles 17.032(b) and (d), Code of Criminal Procedure, are amended to read as follows:

(b)  Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

(1)  the defendant is not charged with and has not been previously convicted of a violent offense or an offense for which an element of the offense involves offensive or provocative sexual contact with another;

(2)  the defendant is examined by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert under Article 16.22;

(3)  the applicable expert, in a written report submitted to the magistrate under Article 16.22:

(A)  concludes that the defendant has a mental illness or is a person with an intellectual disability and is nonetheless competent to stand trial; and

(B)  recommends mental health treatment or intellectual and developmental disability services for the defendant, as applicable;

(4)  the magistrate determines, in consultation with the local mental health authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual and developmental disability services for the defendant are available in accordance with Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual and developmental disability services provider; and

(5)  the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would 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.

(d)  In addition to a condition of release imposed under Subsection (c), the magistrate may require the defendant to comply with other conditions that are reasonably necessary to ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

SECTION 3.  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.

SECTION 4.  This Act takes effect September 1, 2023.