88R3212 JRR-D

By:  Cunningham H.J.R. No. 94

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to set a minimum amount of monetary bond for persons charged with certain felony offenses involving violence and requiring the denial of bail to a person accused of committing a felony while released on bail for a prior felony under most circumstances.

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

SECTION 1.  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 [~~offences~~], 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)  The legislature by general law may set a minimum amount of monetary bail that must be imposed in a case in which a person is accused of committing an offense involving violence, as defined by the legislature, that is punishable as a felony of the second degree or any higher category of offense.

SECTION 2.  Section 11a(a), Article I, Texas Constitution, is amended to read as follows:

(a)  Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) [~~accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, (3)~~] accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, or (3) [~~(4)~~] accused of a violent or sexual offense committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (2) [~~(3)~~] above[~~, of the offense committed while on bail in (2) above,~~] or of the offense in (3) [~~(4)~~] above committed while under the supervision of a criminal justice agency of the State or a political subdivision of the State for a prior felony, may be denied bail pending trial, by a district judge in this State, if the [~~said~~] order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (2) [~~(3)~~] above[~~, the accusation and indictment used under (2) above,~~] or the accusation or indictment used under (3) [~~(4)~~] above within sixty (60) days from the time of [~~his~~] incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused. The [~~; provided, further, that the~~] right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made under this subsection [~~hereunder~~], and that [~~said~~] appeal shall be given preference by the Court of Criminal Appeals.

SECTION 3.  Article I, Texas Constitution, is amended by adding Section 11d to read as follows:

Sec. 11d.  (a) A person accused of committing a felony while on bail for a prior felony for which the person has been charged shall be denied bail pending trial unless a judge or magistrate determines by clear and convincing evidence that, based on the existence of extraordinary circumstances, the judge or magistrate is able to set bail and conditions of release sufficient to reasonably ensure:

(1)  the person's appearance in court as required; and

(2)  the safety of the community, law enforcement, and the victim of the alleged offense.

(b)  A judge or magistrate who denies or sets bail in 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 decision.

(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, not otherwise required by this section or by general law, before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

SECTION 4.  This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to set a minimum amount of monetary bond for persons charged with certain felony offenses involving violence and requiring the denial of bail to a person accused of committing a felony while released on bail for a prior felony under most circumstances."