

By: Stucky

H.B. No. 1906

A BILL TO BE ENTITLED

AN ACT

relating to the period for which a person arrested for certain crimes committed against a child may be held after bond is posted.

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

SECTION 1. This Act may be cited as the Athena Strand Act.

SECTION 2. Article 17.291, Code of Criminal Procedure, is amended to read as follows:

Art. 17.291. FURTHER DETENTION OF CERTAIN PERSONS. (a) In this article:

(1) "Child" means a person younger than 18 years of age.

(2) "Family [~~"family~~] violence" has the meaning assigned to that phrase by Section 71.004, Family Code.

(3) "Magistrate" [~~and~~  
[~~(2) "magistrate"~~] has the meaning assigned to it by Article 2.09 of this code.

(b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the

1 person having custody of the detained person by a magistrate who  
2 concludes that:

3 (1) the violence would continue if the person is  
4 released; and

5 (2) if the additional period exceeds 24 hours,  
6 probable cause exists to believe that the person committed the  
7 instant offense and that, during the 10-year period preceding the  
8 date of the instant offense, the person has been arrested:

9 (A) on more than one occasion for an offense  
10 involving family violence; ~~[or]~~

11 (B) for an ~~[any other]~~ offense in which ~~[, if]~~ a  
12 deadly weapon, as defined by Section 1.07, Penal Code, was used or  
13 exhibited during commission of the offense or during immediate  
14 flight after commission of the offense; or

15 (C) for an offense involving the sexual assault  
16 of or resulting in serious bodily injury to a child.

17 (c) Article 17.29 does not apply when a person has been  
18 arrested for an offense resulting in the death of or serious bodily  
19 injury to a child if there is probable cause to believe the person  
20 will cause harm to any person if immediately released. The head of  
21 the agency with custody of the person shall, on the written  
22 authorization of a magistrate who concludes that the person will  
23 cause harm if released, hold the person for the period specified by  
24 the magistrate. The detention period must be:

25 (1) not less than 48 hours and not more than 7 days  
26 after bond has been posted; or

27 (2) not less than 48 hours and not more than 30 days

1 after bond has been posted, if the magistrate determines that the  
2 person has confessed or admitted to committing the offense to a law  
3 enforcement officer who is investigating the offense.

4         SECTION 3. The change in law made by this Act applies only  
5 to a person arrested or otherwise taken into custody on or after the  
6 effective date of this Act. A person arrested or taken into custody  
7 before the effective date of this Act is governed by the law in  
8 effect on the date the person was arrested or taken into custody,  
9 and the former law is continued in effect for that purpose.

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