

By: Cunningham

H.J.R. No. 94

A JOINT RESOLUTION

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

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

7 SECTION 1. Section 11, Article I, Texas Constitution, is
8 amended to read as follows:

9 Sec. 11. (a) All prisoners shall be bailable by sufficient
10 sureties, unless for capital offenses [~~offences~~], when the proof is
11 evident; but this provision shall not be so construed as to prevent
12 bail after indictment found upon examination of the evidence, in
13 such manner as may be prescribed by law.

14 (b) The legislature by general law may set a minimum amount
15 of monetary bail that must be imposed in a case in which a person is
16 accused of committing an offense involving violence, as defined by
17 the legislature, that is punishable as a felony of the second degree
18 or any higher category of offense.

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

21 (a) Any person (1) accused of a felony less than capital in
22 this State, who has been theretofore twice convicted of a felony,
23 the second conviction being subsequent to the first, both in point
24 of time of commission of the offense and conviction therefor, (2)

1 ~~[accused of a felony less than capital in this State, committed~~
2 ~~while on bail for a prior felony for which he has been indicted,~~
3 ~~(3)]~~ accused of a felony less than capital in this State involving
4 the use of a deadly weapon after being convicted of a prior felony,
5 or (3) ~~[(4)]~~ accused of a violent or sexual offense committed while
6 under the supervision of a criminal justice agency of the State or a
7 political subdivision of the State for a prior felony, after a
8 hearing, and upon evidence substantially showing the guilt of the
9 accused of the offense in (1) or (2) ~~[(3)]~~ above~~[, of the offense~~
10 ~~committed while on bail in (2) above,]~~ or of the offense in (3)
11 ~~[(4)]~~ above committed while under the supervision of a criminal
12 justice agency of the State or a political subdivision of the State
13 for a prior felony, may be denied bail pending trial, by a district
14 judge in this State, if the ~~[said]~~ order denying bail pending trial
15 is issued within seven calendar days subsequent to the time of
16 incarceration of the accused; provided, however, that if the
17 accused is not accorded a trial upon the accusation under (1) or (2)
18 ~~[(3)]~~ above~~[, the accusation and indictment used under (2) above,]~~
19 or the accusation or indictment used under (3) ~~[(4)]~~ above within
20 sixty (60) days from the time of ~~[his]~~ incarceration upon the
21 accusation, the order denying bail shall be automatically set
22 aside, unless a continuance is obtained upon the motion or request
23 of the accused. The ~~[, provided, further, that the]~~ right of appeal
24 to the Court of Criminal Appeals of this State is expressly accorded
25 the accused for a review of any judgment or order made under this
26 subsection ~~[hereunder]~~, and that ~~[said]~~ appeal shall be given
27 preference by the Court of Criminal Appeals.

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

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

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

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

13 (b) A judge or magistrate who denies or sets bail in
14 accordance with this section shall prepare a written order that
15 includes findings of fact and a statement explaining the judge or
16 magistrate's reason for the decision.

17 (c) This section may not be construed to:

18 (1) limit any right a person has under other law to
19 contest a denial of bail or to contest the amount of bail set by a
20 judge or magistrate; or

21 (2) require any hearing or procedure, not otherwise
22 required by this section or by general law, before a judge or
23 magistrate makes a bail decision with respect to a person to whom
24 this section applies.

25 SECTION 4. This proposed constitutional amendment shall be
26 submitted to the voters at an election to be held November 7, 2023.
27 The ballot shall be printed to permit voting for or against the

1 proposition: "The constitutional amendment authorizing the
2 legislature to set a minimum amount of monetary bond for persons
3 charged with certain felony offenses involving violence and
4 requiring the denial of bail to a person accused of committing a
5 felony while released on bail for a prior felony under most
6 circumstances."