

By: Huffman, et al.
(Smith)

S.B. No. 1318

Substitute the following for S.B. No. 1318:

By: Moody

C.S.S.B. No. 1318

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the release of defendants on bail, the duties of a
3 magistrate in certain criminal proceedings, and the notice provided
4 by peace officers to adult victims of family violence.

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

6 SECTION 1. Article 5.04(c), Code of Criminal Procedure, is
7 amended to read as follows:

8 (c) A written notice required by Subsection (b) of this
9 article is sufficient if it is in substantially the following form
10 with the required information in English and in Spanish inserted in
11 the notice:

12 "It is a crime for any person to cause you any physical injury
13 or harm EVEN IF THAT PERSON IS A MEMBER OR FORMER MEMBER OF YOUR
14 FAMILY OR HOUSEHOLD.

15 "NOTICE TO ADULT VICTIMS OF FAMILY VIOLENCE

16 "Please tell the investigating peace officer:

17 "IF you, your child, or any other household resident has been
18 injured; or

19 "IF you feel you are going to be in danger when the officer
20 leaves or later.

21 "You have the right to:

22 "ASK the local prosecutor to file a criminal complaint
23 against the person committing family violence;

24 "PROVIDE information to the local prosecutor that will be

1 helpful to a magistrate setting bail if the person committing
2 family violence is arrested; and

3 "APPLY to a court for an order to protect you (you should
4 consult a legal aid office, a prosecuting attorney, or a private
5 attorney). If a family or household member assaults you and is
6 arrested, you may request that a magistrate's order for emergency
7 protection be issued. Please inform the investigating officer if
8 you want an order for emergency protection. You need not be
9 present when the order is issued. You cannot be charged a fee by a
10 court in connection with filing, serving, or entering a protective
11 order. For example, the court can enter an order that:

- 12 "(1) the abuser not commit further acts of violence;
13 "(2) the abuser not threaten, harass, or contact you at home;
14 "(3) directs the abuser to leave your household; and
15 "(4) establishes temporary custody of the children and
16 directs the abuser not to interfere with the children or any
17 property.

18 "A VIOLATION OF CERTAIN PROVISIONS OF COURT-ORDERED
19 PROTECTION (such as (1) and (2) above) MAY BE A FELONY.

20 "CALL THE FOLLOWING VIOLENCE SHELTERS OR SOCIAL
21 ORGANIZATIONS IF YOU NEED PROTECTION:

22 " _____
23 " _____."

24 SECTION 2. Article 15.17, Code of Criminal Procedure, is
25 amended by adding Subsection (h) to read as follows:

26 (h) Not later than 24 hours after the time a magistrate
27 determines that no probable cause exists to believe that a person

1 committed the offense for which the person was arrested, the
2 magistrate shall make oral or written findings of fact and
3 conclusions of law to support that finding.

4 SECTION 3. Article 17.021, Code of Criminal Procedure, is
5 amended by adding Subsection (h) to read as follows:

6 (h) The office shall, without cost to the county, allow a
7 county to integrate with the public safety report system the jail
8 records management system and case management system used by the
9 county.

10 SECTION 4. Article 17.022, Code of Criminal Procedure, is
11 amended by adding Subsection (g) to read as follows:

12 (g) In the manner described by this article, a magistrate
13 may order, prepare, or consider a public safety report in setting
14 bail for a defendant who is not in custody at the time the report is
15 ordered, prepared, or considered.

16 SECTION 5. The heading to Article 17.027, Code of Criminal
17 Procedure, is amended to read as follows:

18 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH
19 FELONY OFFENSE [~~COMMITTED WHILE ON BAIL~~].

20 SECTION 6. Article 17.027, Code of Criminal Procedure, is
21 amended by amending Subsection (a) and adding Subsections (a-1),
22 (a-2), (c), and (d) to read as follows:

23 (a) Notwithstanding any other law:

24 (1) if a defendant is charged with committing an
25 offense punishable as a felony while released on bail in a pending
26 case for another offense punishable as a felony and the subsequent
27 offense was committed in the same county as the previous offense,

1 the defendant may be released on bail only by:

2 (A) the court before whom the case for the
3 previous offense is pending; or

4 (B) another court designated in writing by the
5 court described by Paragraph (A); and

6 (2) if a defendant is charged with committing an
7 offense punishable as a felony while released on bail for another
8 pending offense punishable as a felony and the subsequent offense
9 was committed in a different county than the previous offense,
10 electronic notice of the charge must be [~~promptly~~] given to the
11 individual designated to receive electronic notices for the county
12 in which the previous offense was committed, not later than the next
13 business day after the date the defendant is charged, for purposes
14 of the court specified by Subdivision (1) [~~for purposes of~~
15 ~~reevaluating the bail decision,~~] determining whether any bail
16 conditions were violated[7] or taking any other applicable action
17 such as an action described by Subsection (a-1).

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

24 (a-2) A criminal law hearing officer appointed under
25 Chapter 54, Government Code, may not make a bail decision regarding
26 a defendant who:

27 (1) is charged with committing an offense punishable

1 as a felony if the defendant:

2 (A) was on parole at the time of the offense;

3 (B) has previously been finally convicted of two
4 or more offenses punishable as a felony and for which the defendant
5 was imprisoned in the Texas Department of Criminal Justice; or

6 (C) is subject to an immigration detainer issued
7 by United States Immigration and Customs Enforcement; or

8 (2) is charged with committing an offense under the
9 following provisions of the Penal Code:

10 (A) Section 19.02 (murder);

11 (B) Section 19.03 (capital murder);

12 (C) Section 20.04 (aggravated kidnapping);

13 (D) Section 22.02 (aggravated assault); or

14 (E) Section 22.021 (aggravated sexual assault).

15 (c) The local administrative district judge for each county
16 shall designate an individual to receive electronic notices under
17 Subsection (a)(2). The county shall ensure that the name and
18 contact information of the individual designated to receive notices
19 under this subsection is:

20 (1) provided on all criminal history and warrant
21 documents issued by the county; and

22 (2) included in the public safety report system
23 developed under Article 17.021.

24 (d) An individual designated under Subsection (c) who
25 receives an electronic notice under Subsection (a) shall promptly
26 provide the notice to the court specified by Subsection (a)(1) and
27 to the attorney representing the state and the defendant's attorney

1 in the pending case for the offense for which the defendant was
2 initially released on bail. A notice provided under this subsection
3 does not constitute an ex parte communication.

4 SECTION 7. Articles 17.03(a) and (b-2), Code of Criminal
5 Procedure, are amended to read as follows:

6 (a) Except as otherwise provided by this chapter
7 [~~Subsection (b) or (b-1)~~], a magistrate may, in the magistrate's
8 discretion, release the defendant on personal bond without sureties
9 or other security.

10 (b-2) Except as provided by Articles 15.21, 17.033, and
11 17.151, a defendant may not be released on personal bond if the
12 defendant:

- 13 (1) is charged with:
- 14 (A) an offense involving violence; or
 - 15 (B) an offense under:
 - 16 (i) Section 481.1123, Health and Safety
 - 17 Code (manufacture or delivery of substance in Penalty Group 1-B);
 - 18 (ii) Section 25.07, Penal Code (violation
 - 19 of certain court orders or conditions of bond in a family violence,
 - 20 child abuse or neglect, sexual assault or abuse, indecent assault,
 - 21 stalking, or trafficking case); or
 - 22 (iii) Section 46.04(a), Penal Code
 - 23 (unlawful possession of firearm); or

24 (2) while released on bail or community supervision
25 for an offense involving violence, is charged with committing:

- 26 (A) any offense punishable as a felony; or
- 27 (B) an offense under the following provisions of

1 the Penal Code:

- 2 (i) Section 22.01(a)(1) (assault);
- 3 (ii) Section 22.05 (deadly conduct);
- 4 (iii) Section 22.07 (terroristic threat);
- 5 or
- 6 (iv) Section 42.01(a)(7) or (8) (disorderly
- 7 conduct involving firearm).

8 SECTION 8. Chapter 17, Code of Criminal Procedure, is
9 amended by adding Article 17.034 to read as follows:

10 Art. 17.034. RELEASE ON PERSONAL BOND OF CERTAIN DEFENDANTS
11 CHARGED WITH NONVIOLENT MISDEMEANORS. (a) In this article,
12 "nonviolent misdemeanor" means any offense punishable as a
13 misdemeanor, other than an offense punishable as a Class A or Class
14 B misdemeanor under the following provisions of the Penal Code:

- 15 (1) Chapter 20, 21, 22, 25, 42, 43, 46, or 71;
- 16 (2) Section 49.04(d); or
- 17 (3) Section 49.06.

18 (b) This article applies only to a defendant who has not
19 previously been convicted of or placed on deferred adjudication
20 community supervision for an offense, other than a traffic offense
21 punishable by fine only.

22 (c) Notwithstanding Article 17.03(b), or a bond schedule
23 adopted or a standing order entered by a judge, a magistrate shall
24 release a defendant charged with a nonviolent misdemeanor on
25 personal bond unless the release on personal bond is otherwise
26 prohibited by law or the magistrate enters a finding on the record
27 that no conditions of release are sufficient to reasonably ensure:

- 1 (1) the defendant's appearance in court as required;
2 and
3 (2) the safety of the community, law enforcement, and
4 the victim of the alleged offense.

5 SECTION 9. Article 17.21, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 17.21. BAIL IN FELONY. (a) In cases of felony, when
8 the accused is in custody of the sheriff or other officer, and the
9 court before which the prosecution is pending is in session in the
10 county where the accused is in custody, the court shall fix the
11 amount of bail, if it is aailable case and determine if the
12 accused is eligible for a personal bond; and the sheriff or other
13 peace officer, unless it be the police of a city, or a jailer
14 licensed under Chapter 1701, Occupations Code, is authorized to
15 take a bail bond of the accused in the amount as fixed by the court,
16 to be approved by such officer taking the same, and will thereupon
17 discharge the accused from custody. The defendant and the
18 defendant's sureties are not required to appear in court.

19 (b) Notwithstanding Subsection (a), a magistrate may not
20 release on bail a defendant charged with an offense punishable as a
21 felony unless:

- 22 (1) the defendant has appeared before the magistrate;
23 and
24 (2) the magistrate has considered the public safety
25 report prepared under Article 17.022 for the defendant.

26 SECTION 10. Article 44.01(a), Code of Criminal Procedure,
27 is amended to read as follows:

1 (a) The state is entitled to appeal an order of a court in a
2 criminal case if the order:

3 (1) dismisses an indictment, information, or
4 complaint or any portion of an indictment, information, or
5 complaint;

6 (2) arrests or modifies a judgment;

7 (3) grants a new trial;

8 (4) sustains a claim of former jeopardy;

9 (5) grants a motion to suppress evidence, a
10 confession, or an admission, if jeopardy has not attached in the
11 case and if the prosecuting attorney certifies to the trial court
12 that the appeal is not taken for the purpose of delay and that the
13 evidence, confession, or admission is of substantial importance in
14 the case; ~~or~~

15 (6) is issued under Chapter [64](#); or

16 (7) grants bail, in an amount considered insufficient
17 by the prosecuting attorney, to a defendant who:

18 (A) is charged with an offense punishable as a
19 felony; and

20 (B) has previously been granted bail for a
21 pending offense punishable as a felony.

22 SECTION 11. Section [72.038](#), Government Code, is amended by
23 adding Subsection (b-1) to read as follows:

24 (b-1) A person who releases a defendant on bail under the
25 authority of a standing order related to bail shall complete the
26 form required under this section.

27 SECTION 12. The change in law made by this Act applies only

1 to a person who is arrested on or after the effective date of this
2 Act. A person arrested before the effective date of this Act is
3 governed by the law in effect on the date the person was arrested,
4 and the former law is continued in effect for that purpose.

5 SECTION 13. This Act takes effect September 1, 2023.