

By: Huffman, Hinojosa

S.J.R. No. 44

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the denial of bail  
2 under some circumstances to a person accused of a violent or sexual  
3 offense or of continuous trafficking of persons and requiring a  
4 judge or magistrate to impose the least restrictive conditions of  
5 bail that may be necessary to ensure the person's appearance in  
6 court as required and the safety of the community, law enforcement,  
7 and the victim of the alleged offense.

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

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

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

16 (b) In setting bail, a judge or magistrate shall impose the  
17 least restrictive conditions, if any, that are necessary to  
18 reasonably ensure the accused person's appearance in court as  
19 required and the safety of the community, law enforcement, and the  
20 victim of the alleged offense.

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

23 Sec. 11d. (a) A person accused of committing a sexual  
24 offense punishable as a felony of the first degree, of committing a

1 violent offense, or of committing continuous trafficking of persons  
2 may be denied bail pending trial if a judge or magistrate determines  
3 by clear and convincing evidence after a hearing that requiring  
4 bail and conditions of release is insufficient to reasonably  
5 ensure:

6           (1) the person's appearance in court as required; or  
7           (2) the safety of the community, law enforcement, or  
8 the victim of the alleged offense.

9           (b) A judge or magistrate who denies a person bail in  
10 accordance with this section shall prepare a written order that  
11 includes findings of fact and a statement explaining the judge's or  
12 magistrate's reason for the denial.

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

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

17           (2) require any testimonial evidence before a judge or  
18 magistrate makes a bail decision with respect to a person to whom  
19 this section applies.

20           (d) For purposes of determining whether clear and  
21 convincing evidence exists to deny a person bail as described by  
22 this section, a judge or magistrate shall consider the factors  
23 required to be considered by a judge or magistrate in setting bail  
24 under general law, including statutory law governing criminal  
25 procedure.

26           (e) In this section, "violent offense" and "sexual offense"  
27 have the meanings assigned by Section 11a of this article.

1           SECTION 3. This proposed constitutional amendment shall be  
2 submitted to the voters at an election to be held November 7, 2023.  
3 The ballot shall be printed to permit voting for or against the  
4 proposition: "The constitutional amendment authorizing the denial  
5 of bail under some circumstances to a person accused of a violent or  
6 sexual offense or of continuous trafficking of persons and  
7 requiring a judge or magistrate to impose the least restrictive  
8 conditions of bail that may be necessary to ensure the person's  
9 appearance in court as required and the safety of the community, law  
10 enforcement, and the victim of the alleged offense."