|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.H.B. 75 |
| By: Smithee |
| Criminal Jurisprudence |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE**  In 2021, the Texas Legislature passed S.B. 6, the Damon Allen Act, which addressed the release of defendants charged with violent offenses or certain subsequent offenses, among other changes. The bill author has informed the committee that since the implementation of that legislation, victims' rights advocates, law enforcement, and other legislators have sought to change the duties of magistrates in bail proceedings. C.S.H.B. 75 seeks to implement this change by requiring magistrates to enter written findings within 24 hours of making a determination that there is no probable cause that a person committed the offense for which the person was arrested. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**  C.S.H.B. 75 amends the Code of Criminal Procedure to require a magistrate, not later than 24 hours after the time the magistrate determines that no probable cause exists to believe that a person committed the offense for which the person was arrested, to enter in the record written findings to support that finding.  C.S.H.B. 75 applies only to an offense committed on or after the bill's effective date. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date. |
| **EFFECTIVE DATE**  September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 75 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.  Both the introduced and substitute require a magistrate, not later than 24 hours after the time the magistrate determines that no probable cause exists to believe that a person committed the offense for which the person was arrested, to take certain actions to support that finding. However, the introduced required a magistrate to make oral or written findings of fact and conclusions of law on the record to support the finding, whereas the substitute requires a magistrate to enter in the record written findings to support the finding.  The substitute omits the following provisions that appeared in the introduced:   * the prohibition against a criminal law hearing officer in Harris County or Cameron County releasing on bail a defendant who is, as follows:   + charged with committing an offense punishable as a felony if the defendant:     - was on parole at the time of the offense;     - has previously been finally convicted of two or more offenses punishable as a felony and for which the defendant was imprisoned in the Texas Department of Criminal Justice; or     - is subject to an immigration detainer issued by United States Immigration and Customs Enforcement; or   + charged with committing the following offenses: murder, capital murder, aggravated kidnapping, aggravated assault, or aggravated sexual assault; * provisions that did the following:   + included among the conditions under which the release of a defendant on personal bond is prohibited the condition that the defendant is charged with the following offenses:     - murder as a result of manufacture or delivery of a controlled substance in Penalty Group 1-B of the Texas Controlled Substances Act;     - violation of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case; or     - unlawful possession of a firearm; and   + prohibited the release on personal bond of any defendant charged with a terroristic threat offense, regardless of whether the defendant is on bail or community supervision for an offense involving violence; * the provision that revised the requirement for a charitable bail organization by a specified deadline to submit to the sheriff of each county in which the organization files an affidavit designating the individuals authorized to pay bonds on behalf of the organization as follows:   + changed the recipient of the report to the Office of Court Administration of the Texas Judicial System (OCA); and   + included among the required contents of the report the following information for each defendant for whom the organization paid a bail bond in the preceding calendar month: each charge for which the bond was paid, the amount of the bond paid, and whether a bond forfeiture has occurred in connection with the charge for which the bond was paid; * the requirement for OCA, if OCA has reason to believe that a charitable bail organization may have paid one or more bonds in violation of provisions governing charitable bail organizations, to report that information to the sheriff of the county in which the suspected violation occurred; * the prohibition against a magistrate who is not a justice of the supreme court, a judge of the court of criminal appeals, a justice of the courts of appeals, or a judge of a district court modifying the amount or conditions of bond set by a district court judge, including the judge of a district court in another county; * the prohibition against any magistrate releasing on bail a defendant charged with an offense punishable as a felony unless the defendant has appeared before the magistrate and the magistrate has considered the public safety report prepared for the defendant; * the provision that entitled the state to appeal an order of a court in a criminal case that grants bail, in an amount considered insufficient by the prosecuting attorney, to a defendant who is charged with an offense punishable as a felony and has previously been granted bail for a pending offense punishable as a felony; and * the provision that established that a defendant who is in custody and for whom the state appeals an order granting bail in an amount considered insufficient by the prosecuting attorney is not entitled to bail and must be held in custody during the pendency of the appeal.   Whereas the introduced repealed Article 17.071(f-1), Code of Criminal Procedure, the substitute does not repeal this provision. |