

BILL ANALYSIS

Senate Research Center

S.B. 9
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

BACKGROUND:

In 2021, the legislature passed S.B. 6 addressing the release practices surrounding habitual and violent offenders to better protect the safety of victims, law enforcement, and our communities. The legislation represents one of the largest overhauls to Texas' bail system; drastically increasing the amount of information available to judges when setting bail and the amount of statewide data tracked on bail outcomes. Now that the reforms have been implemented, cleanup language is necessary to clarify legislative intent, ensure that the new systems are running efficiently, and further increase the safety of our communities.

SUMMARY:

Specifically, S.B. 9 requires hearing officers to make oral or written findings of fact and conclusions of law, on the record, within 24 hours of issuing a "no probable cause" finding.

The bill mandates that the presiding judge, rather than a criminal law hearing officer, be the proper authority for setting the initial bond for:

- a defendant that is on parole at the time he/she is charged with a new offense;
- a defendant who has been previously convicted of two or more felony offenses;
- a defendant charged with violent felony offenses such as murder, capitol murder, aggravated sexual assault, aggravated kidnapping, or aggravated assault; and
- a defendant charged with a felony and is also detained with a concurrent immigration hold.

The bill also amends the list of offenses that a defendant may not be released on a personal bond, adding:

- unlawful possession of a firearm;
- violation of a family violence protective order;
- terroristic threat; and
- murder as a result of manufacturing or delivery of fentanyl.

The bill adjusts the reporting requirement for "charitable bail organization" to be sent to the Office of Court Administration and increases transparency by requiring additional data submissions.

The bill clarifies that a magistrate is not authorized to adjust the amount or conditions of a bond set by the judge of a district court.

S.B. 9 establishes that a bond for a jailable felony offense may not be set until the defendant has gone before a hearing officer or judge.

The bill creates a new avenue for appeal when a prosecutor considers a bail amount insufficient for a defendant who is charged with a felony and is out on bond for another felony offense. This new appeal aligns the timeline for a state appeal for insufficient bond to an accelerated 20-day timeline, which requires a prioritization from the appellate court.

For a secondary offense committed in a different county under Article 17.027 of the Texas Code of Criminal Procedure, the bill clarifies the timelines for notification of a new offense to be given within the next business day

S.B. 9 amends current law relating to the confinement or release of defendants before trial or sentencing, including regulating charitable bail organizations, and the conditions of and procedures for setting bail and reviewing bail decisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 20 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 16, Code of Criminal Procedure, by adding Article 16.24, as follows:

Art. 16.24. REPORTING OF CONDITIONS OF PRETRIAL INTERVENTION PROGRAM. Requires the attorney representing the state, or the attorney's designee who is responsible for monitoring the defendant's compliance with the conditions of the program, as soon as practicable but not later than the 10th business day after the date a defendant enters a pretrial intervention program, to enter information relating to the conditions of the program into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety of the State of Texas (DPS) or modify or remove information, as appropriate.

SECTION 2. Amends Article 17.021, Code of Criminal Procedure, by amending Subsection (b) and adding Subsections (c-1), (h), (h-1), and (i), as follows:

(b) Requires that the public safety report system:

(1)-(4) makes no changes to these subdivisions;

(5) provide, in summary form, the criminal history of the defendant, including information regarding:

(A)-(B) makes no changes to these paragraphs;

(C)-(E) makes nonsubstantive changes to these paragraphs;

(F) whether the defendant is currently on community supervision, parole, or mandatory supervision for an offense;

(G) whether the defendant is currently released on bail or participating in a pretrial intervention program and any conditions of that release or participation;

(H) outstanding warrants for the defendant's arrest that have been entered into the National Crime Information Center database or the Texas Crime Information System established under Section 411.0541 (Texas Crime Information System), Government Code, including a warrant issued under Article 42A.751 (Violation of Conditions of Community Supervision; Detention and Hearing) of this code or Section 508.251 (Issuance of Warrant or Summons), Government Code; and

(I) any current protective orders, as defined by Section 72.151 (Definitions), Government Code, for which the defendant is the subject; and

(6) makes no changes to this subdivision.

Makes nonsubstantive changes to this subsection.

(c-1) Requires the Office of Court Administration of the Texas Judicial System (OCA), on request by an attorney representing the state, to provide to the attorney access to the public safety report system for the purpose of allowing the attorney to access a bail form submitted to OCA under Section 72.038 (Bail Form), Government Code.

(h) Requires that the public safety report system be configured to allow a county or municipality to integrate the jail records management systems used by the county with the public safety report system.

(h-1) Authorizes OCA to provide grants to reimburse counties and municipalities for costs related to integrating the systems described by Subsection (h). Provides that OCA is not required to provide a grant under this subsection unless OCA is appropriated money for that purpose. Provides that this subsection expires August 31, 2027.

(i) Authorizes OCA to modify the public safety report system to incorporate technological advances to the system's features regarding notices and to any other processes OCA determines will enhance the system's availability to protect the public.

SECTION 3. Amends Article 17.022, Code of Criminal Procedure, by adding Subsection (g) to authorize a magistrate, in the manner described by 17.022 (Public Safety Report), to order, prepare, or consider a public safety report in setting bail for a defendant who is not in custody at the time the report is ordered, prepared, or considered.

SECTION 4. Amends the heading to Article 17.027, Code of Criminal Procedure, to read as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH
FELONY OFFENSE.

SECTION 5. Amends Article 17.027, Code of Criminal Procedure, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (c), and (d), as follows:

(a) Provides that, notwithstanding any other law:

(1) if a defendant is taken before a magistrate for, rather than charged with, committing an offense punishable as a felony while released on bail, rather than on bail in a pending case, for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, the defendant is authorized to be released on bail only by certain courts; and

(2) if a defendant is taken before a magistrate for committing an offense punishable as a felony while released on bail, for another offense punishable as a felony and the subsequent offense was committed in a different county than the previous offense, electronic notice of the charge is required to be given, rather than promptly given, to the individual designated to receive electronic notices for the county in which the previous offense was committed, not later than the next business day after the date the defendant is taken before the magistrate, for purposes of the court specified by Subdivision (1), rather than specified by Subdivision (1) for purposes of reevaluating the bail decision, determining whether any bail conditions were violated or taking any other applicable action such as an action described by Subsection (a-1).

Makes conforming and nonsubstantive changes to this subsection.

(a-1) Requires a court before which the case for the previous offense is pending, if a defendant is taken before a magistrate for committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony, to consider whether to revoke or modify the terms of the previous bond or to otherwise reevaluate the previous bail decision.

(a-2) Prohibits a magistrate appointed under Chapter 54 (Masters; Magistrates; Referees; Associate Judges), Government Code, from releasing on bail a defendant who:

(1) is charged with committing an offense punishable as a felony if the defendant:

(A) was released on bail, parole, or community supervision for an offense punishable as a felony at the time of the instant offense;

(B) 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

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

(2) is charged with committing an offense under Section 19.02 (murder), Section 19.03 (capital murder), Section 20.04 (aggravated kidnapping), or Section 22.021 (aggravated sexual assault) of the Penal Code.

(a-3) Requires that an order granting bail signed by a magistrate appointed under Chapter 54, Government Code, include the names of each individual who appointed the magistrate and state that the magistrate was appointed by those individuals.

(c) Requires the local administrative district judge for each county to designate an individual to receive electronic notices under Subsection (a)(2). Requires the county to ensure that the name and contact information of the individual designated to receive notices under this subsection are included in the public safety report system developed under Article 17.021 (Public Safety Report System).

(d) Requires an individual designated under Subsection (c) who receives an electronic notice under Subsection (a) to promptly provide the notice to the court specified by Subsection (a)(1), to the district clerk, and to the attorney representing the state and the defendant's attorney, if known, in the pending case for the offense for which the defendant was initially released on bail. Provides that a notice provided under this subsection does not constitute an ex parte communication.

SECTION 6. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.029, as follows:

Art. 17.029. REVIEW OF BAIL DECISION. (a) Provides that this article applies only to a bail decision:

(1) regarding a defendant charged with or arrested for an offense punishable as a felony; and

(2) that was made under Article 17.028 (Bail Decision) by the magistrate of a court that does not have jurisdiction to try the offense with which the defendant is charged.

(b) Provides that, notwithstanding any other law, a district judge in any county in which the offense for which the person was arrested will be tried or in any county in which the charge for that offense will be filed has jurisdiction to modify a bail decision to which this article applies, regardless of whether the defendant has

been previously indicted or an information has been previously filed for the offense for which the defendant was arrested.

(c) Requires the local administrative judge for each county to establish a procedure for the district clerk to notify each district judge in the county that the district clerk received a request to review a bail decision under this article.

(d) Requires a district judge to review a bail decision as soon as practicable but not later than the next business day after the date a request to review the bail decision is filed with the district clerk by an attorney representing the state.

(e) Requires a district judge reviewing a bail decision under this article to comply with Article 17.09 (Duration; Original and Subsequent Proceedings; New Bail) and consider the facts presented and the rules established by Article 17.15(a) (relating to the regulation of bail amounts and conditions) in setting the defendant's bail.

(f) Requires a district judge, if the judge modifies a bail decision under this article to increase the amount of bail or to require additional conditions of bail for a defendant who is not in custody, to issue a summons for the defendant to appear before the judge and give the defendant a reasonable opportunity to appear before issuing a warrant for the defendant's arrest.

SECTION 7. Amends Articles 17.03(a) and (b-2), Code of Criminal Procedure, as follows:

(a) Authorizes a magistrate, except as otherwise provided by Chapter 17 (Bail), rather than by Subsection (b) (relating to certain circumstances when a defendant is authorized to be released on personal bond) or (b-1) (relating to prohibiting a magistrate from releasing on bond a defendant who is civilly committed as a sexually violent predator), in the magistrate's discretion, to release the defendant on personal bond without sureties or other security.

(b-2) Prohibits a defendant, except as provided by certain provisions of the Penal Code, from being released on personal bond if the defendant:

(1) is charged with an offense involving violence or an offense under certain sections of the Penal Code; or

(2) while released on bail, parole, or community supervision for an offense involving violence, is charged with committing certain offenses, rather than certain offenses including an offense under Section 22.07 (Terroristic Threat), Penal Code.

Makes nonsubstantive changes to this subsection.

SECTION 8. Amends Articles 17.071(a), (f), (h), and (k), Code of Criminal Procedure, as follows:

(a) Defines "office."

(f) Requires a charitable bail organization, not later than the 10th day of each month, to submit to OCA and to the sheriff of each county in which the organization files an affidavit under Subsection (e) (relating to filing an affidavit designating the individuals authorized to pay bonds on behalf of the charitable bail organization), a report that includes the following information for each defendant for whom the organization paid a bail bond in the preceding calendar month:

(1)-(2) makes no changes to these subdivisions;

(3) each charge for which the bond was paid;

- (4) the category of offense for each charge for which the bond was paid;
- (5) the amount of the bond paid;
- (6)-(7) makes nonsubstantive changes to these subdivisions; and
- (8) whether a bond forfeiture has occurred in connection with the charge for which the bond was paid.

Makes nonsubstantive changes to this subsection.

(h) Requires OCA, if OCA has reason to believe that a charitable bail organization may have paid one or more bonds in violation of Article 17.071 (Charitable Bail Organizations), to report that information to the sheriff of the county in which the suspected violation occurred. Authorizes the sheriff of that county, rather than a county, to suspend a charitable bail organization from paying bail bonds in the county for a period not to exceed one year if the sheriff determines the organization has paid one or more bonds in violation of this article and the organization has received a warning from the sheriff in the preceding 12-month period for another payment of bond made in violation of this article. Makes a nonsubstantive change.

(k) Requires OCA, not later than December 1 of each year, to prepare and submit, to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary, a report regarding the information submitted to OCA under Subsections (f), rather than (f-1) (relating to requiring a sheriff who receives certain reports from charitable bail organizations to provide copies to OCA), and (h) for the preceding state fiscal year. Makes a conforming change.

SECTION 9. Amends Section 3, Article 17.09, Code of Criminal Procedure, as follows:

Sec. 3. Authorizes a judge or magistrate, provided that whenever, during the course of the action, and regardless of whether the defendant has been previously released under Article 17.151 (Release Because of Delay), the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause, to either in term-time or in vacation, order the accused to be rearrested, and require the accused to give another bond in such amount as the judge or magistrate may deem proper.

SECTION 10. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.092, as follows:

Art. 17.092. REDUCTION IN AMOUNT OR CONDITIONS OF BOND PROHIBITED IN CERTAIN CIRCUMSTANCES. Prohibits a magistrate described by Articles 2A.151(5)-(14) (relating to certain individuals who are considered magistrates within the Code of Criminal Procedure) from reducing the amount or conditions of bond set by the judge of a district court, including the judge of a district court in another county.

SECTION 11. Amends Article 17.21, Code of Criminal Procedure, as follows:

Art. 17.21. BAIL IN FELONY. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires a magistrate, notwithstanding Subsection (a) (relating to requiring the court, in certain cases, to fix the amount of bail, and authorizing the sheriff or other peace officer to discharge the accused from custody), before releasing on bail a defendant charged with an offense punishable as a felony, to ensure that the

defendant has appeared before the magistrate and the magistrate has considered the public safety report prepared under Article 17.022 for the defendant.

SECTION 12. Amends Chapter 27, Code of Criminal Procedure, by adding Article 27.20, as follows:

Art. 27.20. CONFINEMENT BEFORE SENTENCING ON PLEA OF GUILTY OR NOLO CONTENDERE FOR CERTAIN OFFENSES. Requires the court, if a defendant is adjudged guilty after entering a plea of guilty or nolo contendere for an offense listed in Article 42A.054(a) (relating to offenses for which a defendant adjudged guilty is ineligible for judge-ordered community supervision) punishable as a felony of the second degree or any higher category of offense and for which the defendant is not eligible for community supervision under Article 42A.055 (Jury-Recommended Community Supervision) as provided by Article 42A.056 (Limitation on Jury-Recommended Community Supervision), to order that the defendant be taken into custody and confined until the defendant is sentenced.

SECTION 13. Amends Article 42.01, Code of Criminal Procedure, by adding Section 17, to require that the judgment, in addition to the information described by Section 1 (relating to the contents of a judgment), reflect affirmative findings entered pursuant to Article 42.0195.

SECTION 14. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0195, as follows:

Art. 42.0195. FINDING REGARDING FAILURE TO APPEAR. Requires the judge, in the disposition of a criminal case involving any offense punishable as a Class B misdemeanor or any higher category of offense, to make an affirmative finding of fact and enter the affirmative finding in the judgment or dismissal order in the case if the judge determines that the defendant wilfully failed to appear after the defendant was released from custody for the offense. Requires that the affirmative finding include the number of times the defendant failed to appear for the offense.

SECTION 15. Amends Article 44.01, Code of Criminal Procedure, by amending Subsections (a) and (g) and adding Subsections (f-1) and (f-2), as follows:

(a) Entitles the state to appeal an order of a court in a criminal case if the order:

(1)-(4) makes no changes to these subdivisions;

(5)-(6) makes nonsubstantive changes to these subdivisions; or

(7) grants bail, in an amount considered insufficient by the prosecuting attorney, to a defendant who is charged with an offense under any of certain sections of the Penal Code and is charged with an offense punishable as a felony and was released on bail for an offense punishable as a felony at the time the instant offense was committed.

(f-1) Requires a court of appeals, in an appeal filed under Subsection (a)(7), to conduct a de novo review of all issues presented, expedite the appeal, and issue an order not later than the 20th day after the date the appeal is filed.

(f-2) Authorizes a court of appeals, in an appeal filed under Subsection (a)(7), to affirm or modify the bail amount set by the court or reject the bail amount set by the court and remand the case to the court, with or without guidance, for modification of the bail amount.

(g) Requires the defendant, if the state appeals pursuant to this article and the defendant is on bail, to be permitted to remain at large on the existing bail. Entitles the defendant, if the defendant is in custody, to reasonable bail, as provided by law, unless the appeal is from an order which would grant bail in an amount considered insufficient by the

prosecuting attorney, in which event the defendant is required to be held in custody during the pendency of the appeal. Makes nonsubstantive changes.

SECTION 16. Amends Article 56A.051(a), Code of Criminal Procedure, to entitle a victim, guardian of a victim, or close relative of a deceased victim to certain rights within the criminal justice system, including, when requested, the right to be informed in the manner provided by Article 56A.0525 by the office of the attorney representing the state concerning whether the defendant has fully complied with any conditions of the defendant's bail, and to make nonsubstantive changes.

SECTION 17. Amends Section 72.038, Government Code, by adding Subsections (b-1) and (c-1) and amending Subsection (c), as follows:

(b-1) Requires a person who, under the authority of a standing order related to bail, releases on bail a defendant who is charged with an offense punishable as a Class B misdemeanor or any higher category of offense, to complete the form required under this section.

(c) Requires the person setting bail, an employee of the court that set the defendant's bail, or an employee of the county in which the defendant's bail was set to, on completion of the form required under this section, promptly but not later than 48, rather than 72, hours after the time the defendant's bail is set provide the form electronically to OCA through the public safety report system.

(c-1) Requires OCA to provide to the elected district attorney in each county an electronic copy of the form submitted to OCA under Subsection (c) for each defendant whose bail is set in the county for an offense involving violence, as defined by Article 17.03 (Personal Bond), Code of Criminal Procedure. Requires an elected district attorney to provide an e-mail address to OCA for the purpose of receiving a form as provided by this subsection.

SECTION 18. Amends Section 51A.003(b), Human Resources Code, as follows:

(b) Requires that the notice adopted under Section 51A.003 (Notice to Victims) include certain information in both English and Spanish; including information regarding the legal rights of a victim, including information regarding the ability of the victim to provide information to the local prosecutor that will be helpful to a magistrate setting bail if the person committing the offense is arrested. Makes nonsubstantive changes.

SECTION 19. Repealer: Article 17.071(f-1) (relating to requiring a sheriff who receives a report from a charitable bail organization containing certain information about a defendant whose bail was paid to provide a copy of that report to OCA), Code of Criminal Procedure.

SECTION 20. Requires the Supreme Court of Texas, as soon as practicable but not later than October 1, 2025, to adopt rules necessary to implement Article 44.01(f-1), Code of Criminal Procedure, as added by this Act.

SECTION 21. Makes application of this Act prospective.

SECTION 22. (a) Effective date, except as provided by this section: September 1, 2025.

(b) Effective date, Articles 16.24, 17.021(c-1), (h), and (h-1), Articles 17.027(c) and (d), Code of Criminal Procedure, and Section 72.038(c-1), Government Code: January 1, 2026.

(c) Effective date, Articles 17.021(b), 17.027(a) and (a-1), Code of Criminal Procedure: April 1, 2026.