

BILL ANALYSIS

Senate Research Center
89R5023 LHC-F

S.B. 9
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Criminal Justice
2/7/2025
As Filed

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.

As proposed, S.B. 9 amends current law relating to the release of defendants on bail, the duties of a magistrate in certain criminal proceedings, and the regulation of charitable bail organizations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 15.17, Code of Criminal Procedure, by adding Subsection (h), as follows:

(h) Requires the magistrate, not later than 24 hours after the time a magistrate determines that no probable cause exists to believe that a person committed the offense for which the person was arrested, to make oral or written findings of fact and conclusions of law on the record to support that finding.

SECTION 2. 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 3. Amends Article 17.027, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Prohibits a criminal law hearing officer 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 on parole at the time of the 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 the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 20.04 (aggravated kidnapping);

(D) Section 22.02 (aggravated assault); or

(E) Section 22.021 (aggravated sexual assault).

SECTION 4. Amends Article 17.03(b-2), Code of Criminal Procedure, as follows:

(b-2) Prohibits releasing a defendant, except as provided by certain provisions, if the defendant:

(1) is charged with:

(A) an offense involving violence; or

(B) an offense under:

(i) Section 19.02(b)(4), Penal Code (murder as a result of manufacture or delivery of a controlled substance in Penalty Group 1-B);

(ii) Section 22.07, Penal Code (terroristic threat);

(iii) Section 25.07, Penal Code (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

(iv) Section 46.04(a), Penal Code (unlawful possession of firearm); or

(2) deletes existing text prohibiting a defendant from being released on personal bond if the defendant, while released on bail or community supervision for an offense involving violence, is charged with committing an offense under Section 22.07, Penal Code, and makes a nonsubstantive change.

SECTION 5. Amends Articles 17.071(a), (f), (h), and (k), Code of Criminal Procedure, as follows:

(a) Defines "office." Makes nonsubstantive changes.

(f) Requires a charitable bail organization, not later than the 10th day of each month, to submit to the Office of Court Administration of the Texas Judicial System (OCA), rather than submit to the sheriff of each county in which the organization files an affidavit under Subsection (e) (relating to the requirement for a charitable bail organization to file, in the office of the county clerk for each county where they intend to pay bail bonds, an affidavit designating the individuals authorized to pay bonds on behalf of the 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 amount of the bond paid;

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

(7) whether a bond forfeiture has occurred in connection with the charge for which the bond was paid.

(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 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. Requires the sheriff to report the suspension to OCA.

(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) and (h) for the preceding state fiscal year. Makes a conforming change.

SECTION 6. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.092, as follows:

Art. 17.092. MODIFICATION OF BOND. 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 modifying 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 7. Amends Article 17.21, Code of Criminal Procedure, as follows:

Art. 17.21. BAIL IN FELONY. (a) Creates this subsection from existing text.

(b) Prohibits a magistrate, notwithstanding Subsection (a) (relating to requiring the court, in a felony case when the accused is in custody of the sheriff or other officer and the court before which the prosecution is pending is in session in the county where the accused is in custody, to fix the amount of bail, if it is aailable case and determine if the accused is eligible for a personal bond), from releasing on bail a defendant charged with an offense punishable as a felony unless certain criteria are met.

SECTION 8. Amends Articles 44.01(a) and (g), Code of Criminal Procedure, 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:

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

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

(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:

(1) makes nonsubstantive changes to this subdivision; or

(2) 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.

SECTION 9. 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, is repealed.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2025.