

BILL ANALYSIS

Senate Research Center
89R13455 LHC-F

C.S.S.B. 9
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Criminal Justice
2/12/2025
Committee Report (Substituted)

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, C.S.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.

C.S.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.

C.S.S.B. 9 amends current law relating to the release of defendants on bail, the duties of a magistrate in certain criminal proceedings, the regulation of charitable bail organizations, and the notice provided by peace officers to victims of family violence, stalking, harassment, or terroristic threat.

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) 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 into the record written findings to support that finding.

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) makes a nonsubstantive change to this paragraph;

(B) any pending charges, including whether the defendant is currently released on bail or other pretrial release and any conditions of that release;

(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) 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

(H) 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.

(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 to integrate with the public safety report system the jail records management system and case management system used by the county.

(h-1) Authorizes OCA to provide grants to reimburse counties 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), (c), and (d), as follows:

(a) Provides that, notwithstanding any other law:

(1) makes no changes to this subdivision; and

(2) if a defendant is charged with committing an offense punishable as a felony while released on bail for another pending 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 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 charged, for purposes of the court specified by 17.027(a)(1) (relating to certain circumstances under which a defendant who is charged with a felony while being released on bail in a pending case for a felony offense can be granted bail), rather than to be promptly given to the court 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 a nonsubstantive change.

(a-1) Requires a court before which the case for the previous offense is pending, if a defendant is charged with 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 on parole or community supervision 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).

(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) 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 the district judges 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 Article 17.03(b-2), Code of Criminal Procedure, as follows:

(b-2) Prohibits the release of 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 8. 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 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 9. 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 10. 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 11. 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 12. 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 releases a defendant on bail under the authority of a standing order related to bail 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 receive a form as provided by this subsection, to provide to OCA an e-mail address.

SECTION 13. Amends Section 51A.003(b), Human Resources Code, as follows:

(b) Requires that the notice adopted under this section include the following in both English and Spanish:

(1)–(3) makes no changes to these subdivisions; and

(4) information regarding the legal rights of a victim, including information regarding:

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

(C) 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 14. 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 15. Makes application of this Act prospective.

SECTION 16. Effective date: September 1, 2025.