

## **RESOLUTION ANALYSIS**

C.S.S.J.R. 1  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

No current Texas law requires the denial of bail for illegal aliens. However, recent news has highlighted certain heinous crimes alleged to have been committed by defendants unlawfully present in the United States, including the June 2024 murder of Jocelyn Nungaray, widely reported in publications such as the *Houston Chronicle*. The defendants in that case were not denied bail despite their flight risk. C.S.S.J.R. 1, Jocelyn's Law, seeks to address this issue by requiring the denial of bail pending trial under certain circumstances for an illegal alien charged with certain offenses.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this resolution 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 resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.J.R. 1 proposes an amendment to the Texas Constitution to require an illegal alien to be denied bail pending trial if a judge or magistrate determines after a hearing that probable cause exists to believe that the person engaged in the conduct constituting the applicable offense. This requirement applies only to an illegal alien who is accused of committing one or more of the following offenses:

- criminal solicitation, if the offense is punishable as a first degree felony;
- murder;
- capital murder;
- aggravated kidnapping;
- trafficking of persons;
- continuous trafficking of persons;
- indecency with a child;
- sexual assault;
- aggravated sexual assault;
- injury to a child, if the offense is punishable as a felony;
- aggravated robbery;
- burglary, if:
  - the offense is punishable as a first degree felony; and
  - the illegal alien committed the offense with the intent to commit one or more of the following offenses punishable as a felony:
    - continuous sexual abuse of a young child or disabled individual;

- indecency with a child;
  - sexual assault;
  - aggravated sexual assault; or
  - prohibited sexual conduct;
- aggravated promotion of prostitution;
- compelling prostitution;
- sexual performance by a child;
- possession or promotion of child pornography;
- an offense punishable as a felony if:
  - a deadly weapon, as that term is defined by general law, was used or exhibited during the commission of the offense or during the immediate flight from the commission of the offense; and
  - the illegal alien:
    - used or exhibited the deadly weapon; or
    - was a party to the offense and knew that a deadly weapon would be used or exhibited;
- an offense under the Election Code that is punishable as a third degree felony or any higher category of offense;
- an offense that involves the manufacture or delivery of or possession with the intent to deliver a controlled substance under the Health and Safety Code and that is punishable as a felony; or
- an offense punishable as a felony that involves the manufacture, delivery, or possession of a controlled substance and that was committed in a drug-free zone as provided by general law, if the illegal alien has previously been convicted of an offense punishable as a felony that involves the manufacture, delivery, or possession of a controlled substance and that was committed in a drug-free zone as provided by general law.

C.S.S.J.R. 1 defines "illegal alien" for purposes of the resolution's provisions as an alien who, as follows:

- before the date of the commission of the offense:
  - entered the United States without inspection or at any time or any place other than as designated by the U.S. attorney general; or
  - was admitted as a nonimmigrant and failed to maintain the nonimmigrant status under which the alien was admitted or to which it was changed under applicable federal immigration law or to comply with the conditions of the alien's status; and
- did not attain and maintain lawful presence in the United States before the date of the commission of the offense.

The resolution establishes that, for purposes of the resolution's provisions, a person is lawfully present in the United States only if the person is a U.S. citizen or has been granted status as a lawful permanent resident, asylee, or refugee or status as a parolee under a military parole in place program. The resolution's provisions may not be construed to prevent a lawful transfer of custody of an illegal alien who is denied bail under the resolution's provisions.

### **ELECTION DATE**

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 4, 2025.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.J.R. 1 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the resolution.

Whereas the engrossed required an illegal alien who is accused of committing an offense punishable as a felony to be denied bail pending trial if a judge or magistrate determines after a hearing that probable cause exists to believe that the person engaged in the conduct constituting the offense, the substitute includes provisions that do the following:

- require an illegal alien to be denied bail pending trial if a judge or magistrate determines after a hearing that probable cause exists to believe that the person engaged in conduct constituting an applicable offense; and
- establishes that the substitute's requirement applies only to an illegal alien who is accused of committing one or more of the following offenses:
  - criminal solicitation, if the offense is punishable as a first degree felony;
  - murder;
  - capital murder;
  - aggravated kidnapping;
  - trafficking of persons;
  - continuous trafficking of persons;
  - indecency with a child;
  - sexual assault;
  - aggravated sexual assault;
  - injury to a child, if the offense is punishable as a felony;
  - aggravated robbery;
  - burglary, if:
    - the offense is punishable as a first degree felony; and
    - the illegal alien committed the offense with the intent to commit one or more of the following offenses punishable as a felony:
      - continuous sexual abuse of a young child or disabled individual;
      - indecency with a child;
      - sexual assault;
      - aggravated sexual assault; or
      - prohibited sexual conduct;
  - aggravated promotion of prostitution;
  - compelling prostitution;
  - sexual performance by a child;
  - possession or promotion of child pornography;
  - an offense punishable as a felony if:
    - a deadly weapon, as that term is defined by general law, was used or exhibited during the commission of the offense or during the immediate flight from the commission of the offense; and
    - the illegal alien:
      - used or exhibited the deadly weapon; or
      - was a party to the offense and knew that a deadly weapon would be used or exhibited;
  - an offense under the Election Code that is punishable as a third degree felony or any higher category of offense;
  - an offense that involves the manufacture or delivery of or possession with the intent to deliver a controlled substance under the Health and Safety Code and that is punishable as a felony; or
  - an offense punishable as a felony that involves the manufacture, delivery, or possession of a controlled substance and that was committed in a drug-free zone as provided by general law, if the illegal alien has previously been convicted of an offense punishable as a felony that involves the manufacture, delivery, or possession of a controlled substance and that was committed in a drug-free zone as provided by general law.

The engrossed defined "illegal alien" as a person who entered the United States without inspection or at any time or any place other than as designated by the U.S. attorney general or was admitted as a nonimmigrant and, before the date of the commission of the offense, had

failed to maintain the nonimmigrant status under which the alien was admitted or to which the status was changed under applicable federal immigration law, or to comply with the conditions of the person's status, whereas the substitute does not. The substitute instead defines "illegal alien" as an alien who, as follows:

- before the date of the commission of the offense:
  - entered the United States without inspection or at any time or any place other than as designated by the U.S. attorney general; or
  - was admitted as a nonimmigrant and failed to maintain the nonimmigrant status under which the alien was admitted or to which it was changed under applicable federal immigration law or to comply with the conditions of the alien's status; and
- did not attain and maintain lawful presence in the United States before the date of the commission of the offense.

The substitute includes the following provisions that did not appear in the engrossed:

- a provision establishing that, for purposes of the substitute's provisions, a person is lawfully present in the United States only if the person is a U.S. citizen or has been granted status as a lawful permanent resident, asylee, or refugee or status as a parolee under a military parole in place program; and
- a provision establishing that the resolution's provisions may not be construed to prevent a lawful transfer of custody of an illegal alien who is denied bail under the resolution's provisions.

The substitute revises the proposed ballot language as set out by the engrossed.