89R5023 LHC-F

By:  Smithee H.B. No. 75

A BILL TO BE ENTITLED

AN ACT

relating to the release of defendants on bail, the duties of a magistrate in certain criminal proceedings, and the regulation of charitable bail organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Article 15.17, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h)  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, the magistrate shall make oral or written findings of fact and conclusions of law on the record to support that finding.

SECTION 2.  The heading to Article 17.027, Code of Criminal Procedure, is amended to read as follows:

Art. 17.027.  RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE [~~COMMITTED WHILE ON BAIL~~].

SECTION 3.  Article 17.027, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1)  A criminal law hearing officer appointed under Chapter 54, Government Code, may not release 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.  Article 17.03(b-2), Code of Criminal Procedure, is amended to read as follows:

(b-2)  Except as provided by Articles 15.21, 17.032, 17.033, and 17.151, a defendant may not be released on personal bond 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)  while released on bail or community supervision for an offense involving violence, is charged with committing:

(A)  any offense punishable as a felony; or

(B)  an offense under the following provisions of the Penal Code:

(i)  Section 22.01(a)(1) (assault);

(ii)  Section 22.05 (deadly conduct); or

(iii)  [~~Section 22.07 (terroristic threat); or~~

[~~(iv)~~]  Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

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

(a)  In this article:

(1)  "Charitable [~~, "charitable~~] bail organization" means a person who accepts and uses donations from the public to deposit money with a court in the amount of a defendant's bail bond. The term does not include:

(A) [~~(1)~~]  a person accepting donations with respect to a defendant who is a member of the person's family, as determined under Section 71.003, Family Code; or

(B) [~~(2)~~]  a nonprofit corporation organized for a religious purpose.

(2)  "Office" means the Office of Court Administration of the Texas Judicial System.

(f)  Not later than the 10th day of each month, a charitable bail organization shall submit to the office [~~, to the sheriff of each county in which the organization files an affidavit under Subsection (e),~~] a report that includes the following information for each defendant for whom the organization paid a bail bond in the preceding calendar month:

(1)  the name of the defendant;

(2)  the cause number of the case;

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

(4)  the amount of the bond paid;

(5)  the county in which the applicable charge is pending, if different from the county in which the bond was paid;

(6)  [~~and~~

[~~(4)~~]  any dates on which the defendant has failed to appear in court as required for the charge for which the bond was paid; and

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

(h)  If the office has reason to believe that a charitable bail organization may have paid one or more bonds in violation of this article, the office shall report that information to the sheriff of the county in which the suspected violation occurred. The sheriff of that [~~a~~] county may 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.  The sheriff shall report the suspension to the office [~~Office of Court Administration of the Texas Judicial System~~].

(k)  Not later than December 1 of each year, the office [~~Office of Court Administration of the Texas Judicial System~~] shall 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 the office under Subsections (f) [~~(f-1)~~] and (h) for the preceding state fiscal year.

SECTION 6.  Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.092 to read as follows:

Art. 17.092.  MODIFICATION OF BOND. A magistrate described by Articles 2A.151(5)-(14) may not modify 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.  Article 17.21, Code of Criminal Procedure, is amended to read as follows:

Art. 17.21.  BAIL IN FELONY. (a) In cases of felony, 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, the court shall fix the amount of bail, if it is a bailable case and determine if the accused is eligible for a personal bond; and the sheriff or other peace officer, unless it be the police of a city, or a jailer licensed under Chapter 1701, Occupations Code, is authorized to take a bail bond of the accused in the amount as fixed by the court, to be approved by such officer taking the same, and will thereupon discharge the accused from custody. The defendant and the defendant's sureties are not required to appear in court.

(b)  Notwithstanding Subsection (a), a magistrate may not release on bail a defendant charged with an offense punishable as a felony unless:

(1)  the defendant has appeared before the magistrate; and

(2)  the magistrate has considered the public safety report prepared under Article 17.022 for the defendant.

SECTION 8.  Articles 44.01(a) and (g), Code of Criminal Procedure, are amended to read as follows:

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

(1)  dismisses an indictment, information, or complaint or any portion of an indictment, information, or complaint;

(2)  arrests or modifies a judgment;

(3)  grants a new trial;

(4)  sustains a claim of former jeopardy;

(5)  grants a motion to suppress evidence, a confession, or an admission, if jeopardy has not attached in the case and if the prosecuting attorney certifies to the trial court that the appeal is not taken for the purpose of delay and that the evidence, confession, or admission is of substantial importance in the case; [~~or~~]

(6)  is issued under Chapter 64; 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)  If the state appeals pursuant to this article and the defendant is on bail, the defendant [~~he~~] shall be permitted to remain at large on the existing bail. If the defendant is in custody, the defendant [~~he~~] is entitled to reasonable bail, as provided by law, unless the appeal is from an order which would:

(1)  terminate the prosecution, in which event the defendant is entitled to release on personal bond; or

(2)  grant bail in an amount considered insufficient by the prosecuting attorney, in which event the defendant shall be held in custody during the pendency of the appeal.

SECTION 9.  Article 17.071(f-1), Code of Criminal Procedure, is repealed.

SECTION 10.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act 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 purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11.  This Act takes effect September 1, 2025.