By:  Huffman, et al. S.B. No. 9

(In the Senate - Filed February 3, 2025; February 3, 2025, read first time and referred to Committee on Criminal Justice; February 13, 2025, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 0; February 13, 2025, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Flores          X

Parker          X

Hagenbuch       X

Hinojosa of Hidalgo  X

Huffman         X

King            X

Miles                     X

COMMITTEE SUBSTITUTE FOR S.B. No. 9 By:  Huffman

A BILL TO BE ENTITLED

AN ACT

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.

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 enter in the record written findings to support that finding.

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

(b)  The public safety report system must:

(1)  state the requirements for setting bail under Article 17.15 and list each factor provided by Article 17.15(a);

(2)  provide the defendant's name and date of birth or, if impracticable, other identifying information, the cause number of the case, if available, and the offense for which the defendant was arrested;

(3)  provide information on the eligibility of the defendant for a personal bond;

(4)  provide information regarding the applicability of any required or discretionary bond conditions;

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

(A)  previous misdemeanor convictions or felony convictions;

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

(C)  any previous sentences imposing a term of confinement;

(D)  any previous convictions or pending charges for:

(i)  offenses that are offenses involving violence as defined by Article 17.03; or

(ii)  offenses involving violence directed against a peace officer; [~~and~~]

(E)  any previous failures of the defendant to appear in court following release on bail;

(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, Government Code, including a warrant issued under Article 42A.751 of this code or Section 508.251, Government Code; and

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

(6)  be designed to collect and maintain the information provided on a bail form submitted under Section 72.038, Government Code.

(c-1)  On request by an attorney representing the state, the office shall 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 the office under Section 72.038, Government Code.

(h)  The public safety report system must 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)  The office may provide grants to reimburse counties for costs related to integrating the systems described by Subsection (h). The office is not required to provide a grant under this subsection unless the office is appropriated money for that purpose. This subsection expires August 31, 2027.

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

SECTION 3.  Article 17.022, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g)  In the manner described by this article, a magistrate may 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.  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 5.  Article 17.027, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (c), and (d) to read as follows:

(a)  Notwithstanding any other law:

(1)  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 and the subsequent offense was committed in the same county as the previous offense, the defendant may be released on bail only by:

(A)  the court before whom the case for the previous offense is pending; or

(B)  another court designated in writing by the court described by Paragraph (A); 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 must be [~~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 charged, for purposes of 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).

(a-1)  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, the court before which the case for the previous offense is pending shall consider whether to revoke or modify the terms of the previous bond or to otherwise reevaluate the previous bail decision.

(a-2)  A magistrate 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 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)  The local administrative district judge for each county shall designate an individual to receive electronic notices under Subsection (a)(2). The county shall 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.

(d)  An individual designated under Subsection (c) who receives an electronic notice under Subsection (a) shall 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. A notice provided under this subsection does not constitute an ex parte communication.

SECTION 6.  Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.029 to read as follows:

Art. 17.029.  REVIEW OF BAIL DECISION. (a) 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 by the magistrate of a court that does not have jurisdiction to try the offense with which the defendant is charged.

(b)  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)  The local administrative judge for each county shall 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)  A district judge must 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)  A district judge reviewing a bail decision under this article shall comply with Article 17.09 and shall consider the facts presented and the rules established by Article 17.15(a) in setting the defendant's bail.

(f)  If a district 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, the judge shall:

(1)  issue a summons for the defendant to appear before the judge; and

(2)  give the defendant a reasonable opportunity to appear before issuing a warrant for the defendant's arrest.

SECTION 7.  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 8.  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 9.  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 10.  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 11.  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 12.  Section 72.038, Government Code, is amended by adding Subsections (b-1) and (c-1) and amending Subsection (c) to read as follows:

(b-1)  A person who releases a defendant on bail under the authority of a standing order related to bail shall complete the form required under this section.

(c)  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 must, on completion of the form required under this section, promptly but not later than 48 [~~72~~] hours after the time the defendant's bail is set provide the form electronically to the office through the public safety report system.

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

SECTION 13.  Section 51A.003(b), Human Resources Code, is amended to read as follows:

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

(1)  a statement that it is a criminal offense for any person, including a member of the family or former member of the family, to cause physical injury or harm to a victim or to engage in conduct constituting stalking, harassment, or terroristic threat toward a victim;

(2)  a list of agencies and social organizations that the victim may contact for assistance with safety planning, shelter, or protection;

(3)  contact information for:

(A)  the National Domestic Violence Hotline;

(B)  victim support services at the Department of Public Safety; and

(C)  the commission's family violence program; and

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

(A)  the filing of criminal charges and obtaining a protective order or a magistrate's order for emergency protection; [~~and~~]

(B)  the ability of a tenant who is a victim of family violence to vacate a dwelling and terminate a residential lease; 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.

SECTION 14.  Article 17.071(f-1), Code of Criminal Procedure, is repealed.

SECTION 15.  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 16.  This Act takes effect September 1, 2025.

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