89R30460 LHC-D

By:  Huffman, et al. S.J.R. No. 5

(Smithee, DeAyala, Louderback, Cook, Moody, et al.)

Substitute the following for S.J.R. No. 5:

By:  Smithee C.S.S.J.R. No. 5

A JOINT RESOLUTION

proposing a constitutional amendment requiring the denial of bail under certain circumstances to persons accused of certain offenses punishable as a felony.

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

SECTION 1.  Article I, Texas Constitution, is amended by adding Section 11d to read as follows:

Sec. 11d.  (a) This section applies only to a person accused of committing one or more of the following offenses:

(1)  murder;

(2)  capital murder;

(3)  aggravated assault if the person:

(A)  caused serious bodily injury, as that term is defined by general law, to another; or

(B)  used a firearm, club, knife, or explosive weapon, as those terms are defined by general law, during the commission of the assault;

(4)  aggravated kidnapping;

(5)  aggravated robbery;

(6)  aggravated sexual assault;

(7)  indecency with a child;

(8)  trafficking of persons; or

(9)  continuous trafficking of persons.

(b)  A person to whom this section applies shall be denied bail pending trial if the attorney representing the state demonstrates by clear and convincing evidence after a hearing that the granting of bail is insufficient to reasonably:

(1)  prevent the person's wilful nonappearance in court; or

(2)  ensure the safety of the community, law enforcement, and the victim of the alleged offense.

(c)  A judge or magistrate who grants a person bail in accordance with this section shall:

(1)  set bail and impose conditions of release necessary only to reasonably:

(A)  prevent the person's wilful nonappearance in court; and

(B)  ensure the safety of the community, law enforcement, and the victim of the alleged offense; and

(2)  prepare a written order that includes findings of fact and a statement explaining the judge's or magistrate's justification for the grant and the determinations required by this section.

(d)  This section may not be construed to:

(1)  limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or

(2)  require any testimonial evidence before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

(e)  For purposes of determining whether clear and convincing evidence exists as described by this section, a judge or magistrate shall consider:

(1)  the likelihood of the person's wilful nonappearance in court;

(2)  the nature and circumstances of the alleged offense;

(3)  the safety of the community, law enforcement, and the victim of the alleged offense; and

(4)  the criminal history of the person.

(f)  At a hearing described by this section, a person is entitled to be represented by counsel.

SECTION 2.  This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 2025. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment requiring the denial of bail under certain circumstances to persons accused of certain offenses punishable as a felony."