

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;

1 (B) has previously been finally convicted of two
2 or more offenses punishable as a felony and for which the defendant
3 was imprisoned in the Texas Department of Criminal Justice; or

4 (C) is subject to an immigration detainer issued
5 by United States Immigration and Customs Enforcement; or

6 (2) is charged with committing an offense under the
7 following provisions of the Penal Code:

8 (A) Section 19.02 (murder);

9 (B) Section 19.03 (capital murder);

10 (C) Section 20.04 (aggravated kidnapping);

11 (D) Section 22.02 (aggravated assault); or

12 (E) Section 22.021 (aggravated sexual assault).

13 SECTION 4. Article 17.03(b-2), Code of Criminal Procedure,
14 is amended to read as follows:

15 (b-2) Except as provided by Articles 15.21, 17.032, 17.033,
16 and 17.151, a defendant may not be released on personal bond if the
17 defendant:

18 (1) is charged with:

19 (A) an offense involving violence; or

20 (B) an offense under:

21 (i) Section 19.02(b)(4), Penal Code (murder
22 as a result of manufacture or delivery of a controlled substance in
23 Penalty Group 1-B);

24 (ii) Section 22.07, Penal Code (terroristic
25 threat);

26 (iii) Section 25.07, Penal Code (violation
27 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.

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

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

- 9 (1) the name of the defendant;
10 (2) the cause number of the case;
11 (3) each charge for which the bond was paid;
12 (4) the amount of the bond paid;
13 (5) the county in which the applicable charge is
14 pending, if different from the county in which the bond was paid;
15 (6) [~~and~~
16 [~~(4)~~] any dates on which the defendant has failed to
17 appear in court as required for the charge for which the bond was
18 paid; and
19 (7) whether a bond forfeiture has occurred in
20 connection with the charge for which the bond was paid.

21 (h) If the office has reason to believe that a charitable
22 bail organization may have paid one or more bonds in violation of
23 this article, the office shall report that information to the
24 sheriff of the county in which the suspected violation occurred.
25 The sheriff of that [~~a~~] county may suspend a charitable bail
26 organization from paying bail bonds in the county for a period not
27 to exceed one year if the sheriff determines the organization has

1 paid one or more bonds in violation of this article and the
2 organization has received a warning from the sheriff in the
3 preceding 12-month period for another payment of bond made in
4 violation of this article. The sheriff shall report the suspension
5 to the office [~~Office of Court Administration of the Texas Judicial~~
6 ~~System~~].

7 (k) Not later than December 1 of each year, the office
8 [~~Office of Court Administration of the Texas Judicial System~~] shall
9 prepare and submit, to the governor, lieutenant governor, speaker
10 of the house of representatives, and presiding officers of the
11 standing committees of each house of the legislature with primary
12 jurisdiction over the judiciary, a report regarding the information
13 submitted to the office under Subsections (f) [~~(f-1)~~] and (h) for
14 the preceding state fiscal year.

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

17 Art. 17.092. MODIFICATION OF BOND. A magistrate described
18 by Articles 2A.151(5)-(14) may not modify the amount or conditions
19 of bond set by the judge of a district court, including the judge of
20 a district court in another county.

21 SECTION 7. Article 17.21, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 17.21. BAIL IN FELONY. (a) In cases of felony, when
24 the accused is in custody of the sheriff or other officer, and the
25 court before which the prosecution is pending is in session in the
26 county where the accused is in custody, the court shall fix the
27 amount of bail, if it is aailable case and determine if the

1 accused is eligible for a personal bond; and the sheriff or other
2 peace officer, unless it be the police of a city, or a jailer
3 licensed under Chapter 1701, Occupations Code, is authorized to
4 take a bail bond of the accused in the amount as fixed by the court,
5 to be approved by such officer taking the same, and will thereupon
6 discharge the accused from custody. The defendant and the
7 defendant's sureties are not required to appear in court.

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

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

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

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

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

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

22 (2) arrests or modifies a judgment;

23 (3) grants a new trial;

24 (4) sustains a claim of former jeopardy;

25 (5) grants a motion to suppress evidence, a
26 confession, or an admission, if jeopardy has not attached in the
27 case and if the prosecuting attorney certifies to the trial court

1 that the appeal is not taken for the purpose of delay and that the
2 evidence, confession, or admission is of substantial importance in
3 the case; ~~[or]~~

4 (6) is issued under Chapter 64; or

5 (7) grants bail, in an amount considered insufficient
6 by the prosecuting attorney, to a defendant who:

7 (A) is charged with an offense punishable as a
8 felony; and

9 (B) has previously been granted bail for a
10 pending offense punishable as a felony.

11 (g) If the state appeals pursuant to this article and the
12 defendant is on bail, the defendant ~~[he]~~ shall be permitted to
13 remain at large on the existing bail. If the defendant is in
14 custody, the defendant ~~[he]~~ is entitled to reasonable bail, as
15 provided by law, unless the appeal is from an order which would:

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

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

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

23 SECTION 10. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

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1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

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