

- SUBJECT:** Requiring notice before the amount of bail is reduced in certain cases.
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Keel, Riddle, Escobar, Pena, Reyna
0 nays
4 absent — Denny, Hodge, P. Moreno, Raymond
- SENATE VOTE:** On final passage, April 7 — 31-0, on Local and Consent Calendar
- WITNESSES:** For — Jana McCown, Williamson County District Attorney; Chip Wilkinson, Tarrant County District Attorney’s Office.
Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 62.01(5), lists the offenses for which convicted offenders must register as sex offenders. These include indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, compelling prostitution, sexual performance by a child, child pornography, aggravated kidnapping with the intent to commit a sexual offense, burglary of a habitation with the intent to commit a sex offense, kidnapping a child under 17, unlawful restraint of child under 17, and indecent exposure.

A person convicted under Code of Criminal Procedure, art. 42.123g, for what is known as a “3g” offense, does not qualify for community supervision. These offenses include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, aggravated robbery, sexual assault, an offense with a deadly weapon, and certain drug-related crimes.
- DIGEST:** SB 56 would require a judge or magistrate to give reasonable notice to the prosecutor before reducing bail for a defendant charged with a 3g offense or an offense under the Code of Criminal Procedure, art. 62.01(5). The judge would have to provide a hearing on the proposed bail reduction if requested by the prosecutor or the defendant.

The bill would take effect on Sept. 1, 2005.

**SUPPORTERS
SAY:**

SB 56 would authorize the state to have input when the judge made decisions about bond reduction for offenders charged with serious offenses. Code of Criminal Procedure, Art. 17, which governs the procedures for setting bail, does not require a judge to notify the prosecutor in advance when there is a request to reduce bail. The state should have a say when a defendant is released because the defendant could pose a threat to the victim, especially in domestic violence situations. The bill would allow the state to have input into conditions of release, such as no contact with the victim or requiring a defendant to wear an electronic monitor.

While many judges do give advance notice, current law does not guarantee it. In serious crimes, the judge must have access to all available information to make a sound decision. The defense could omit important information on whether the defendant posed a threat to the victim or was likely to flee before trial. The bill would not clog the courts because it would require notice only for the most serious offenses.

**OPPONENTS
SAY:**

SB 56 is unnecessary because in the vast majority of cases, a judge would notify the prosecutor before reducing bail. Allowing the prosecutor to request a hearing each time bail might be reduced would cause unnecessary delays in getting a defendant released from jail and further tie up already heavy docket loads.