

BILL ANALYSIS

Senate Research Center
82R6430 MAW-D

H.B. 1070
By: Scott et al. (Hinojosa)
Administration
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Observers note that a sheriff or peace officer takes a bail bond of a defendant held in a county jail in Texas but that licensed peace officers do not typically work in a county jail.

Interested parties note that legislation is required to allow a licensed jailer to take a bail bond of a defendant, which they assert would increase efficiencies and reduce overcrowding.

H.B. 1070 seeks to address this matter by adding Article 17.025, Code of Criminal Procedure, to allow a county jailer to take a defendant's bail bond.

H.B. 1070 also establishes that a county jailer licensed by the Texas Commission on Law Enforcement Officer Standards and Education is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under provisions of law regarding bail.

H.B. 1070 amends current law relating to the taking of a defendant's bail bond by county jailers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.025, as follows:

Art. 17.025. OFFICERS TAKING BAIL BOND. Provides that a jailer licensed under Chapter 1701 (Law Enforcement Officers), Occupations Code, is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under this chapter.

SECTION 2. Amends Article 17.05, Code of Criminal Procedure, to provide that a bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant by a peace officer or jailer if authorized by Article 17.20, 17.21, or 17.22.

SECTION 3. Amends Article 17.20, Code of Criminal Procedure, to authorize the sheriff, or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, in cases of misdemeanor, whether during the term of the court or in vacation, where the officer has a defendant in custody, to take of the defendant a bail bond. Makes nonsubstantive changes.

SECTION 4. Amends Article 17.21, Code of Criminal Procedure, as follows:

Art. 17.21. BAIL IN FELONY. Requires the court, in cases of felony, when the accused is in custody of the sheriff or other officer, rather than the sheriff or other peace officer, and the court before which the prosecution is pending is in session in the county where the accused is in custody, to 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. Provides that the defendant and the defendant's sureties are not required to appear in court. Makes a nonsubstantive change.

SECTION 5. Amends Article 17.22, Code of Criminal Procedure, to authorize the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, who has the defendant in custody, in a felony case, if the court before which the same is pending is not in session in the county where the defendant is in custody, to take the defendant's bail bond in such amount as may have been fixed by the court or magistrate, or if no amount has been fixed, then in such amount as such officer may consider reasonable. Makes nonsubstantive changes.

SECTION 6. Effective date: upon passage or September 1, 2011.