

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 21
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current bail bond system in Texas allows for the continual release of habitual and violent offenders on multiple felony and Personal Recognizance (PR) Bonds. Unfortunately, these practices have led to almost 100 murders in Harris County by defendants out on multiple felony PR bonds in the past two years alone.

S.B. 21 seeks to address the release practices surrounding habitual and violent offenders and aims to better protect the safety of their victims, law enforcement officers, and their communities as a whole.

Many judges and magistrates across the state do not take vital information into consideration when setting bail amounts. Without a defendant's entire personal profile at their disposal, the defendant's overall flight and re-offense risk is nearly impossible to determine. S.B. 21 would resolve this issue by requiring judges and magistrates to evaluate specific information on defendants, such as criminal history reports, allowing them to make the most educated bail determinations.

Additionally, S.B. 21 seeks to create a more transparent and accountable system by requiring county clerks to collect and report all relevant bail bonding information to be published by the Office of Court Administration. By making this information more readily accessible, the legislature could more properly study the effectiveness and best practices surrounding our bail system, while also allowing the public to track and analyze how well judges are ensuring their safety.

(Original Author's/ Sponsor's Statement)

C.S.S.B. 21 amends current law relating to rules for fixing the amount of bail; to the release of certain defendants on a bail bond or personal bond; to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.

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 17.027, as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH OFFENSE COMMITTED WHILE ON BAIL. Provides that if a defendant is charged with committing an offense while released on bail for another offense, notwithstanding any other law, only the court before whom the case for the previous offense is pending is authorized to release the defendant on bail. Requires the defendant to be presented to the court within the period prescribed by Article 15.17 (Duties of Arresting Officer and

Magistrate), either in person or by means of videoconference, in accordance with that article.

SECTION 2. Amends Article 17.03, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (b-2), as follows:

(a) Includes an exception provided by Subsection (b-2) among exceptions to the authorization of a magistrate, in the magistrate's discretion, to release the defendant on personal bond without sureties or other security.

(b) Deletes existing text providing that Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant), Penal Code, is among sections under which a defendant charged is eligible for release on personal bond. Makes nonsubstantive changes.

(b-2) Prohibits a magistrate from releasing on personal bond a defendant who is charged with committing an offense while released on bail or community supervision for an offense involving violence, as defined by Article 17.15(b) (relating to the definition of "family violence") or who has previously been convicted of an offense involving violence, as defined by Article 17.15(b).

SECTION 3. Amends Chapter 17, Code of Criminal Procedure, by adding Articles 17.0501, 17.0502, and 17.071, as follows:

Art. 17.0501. TRAINING ON CRIMINAL HISTORY RECORD INFORMATION. Requires the Department of Public Safety of the State of Texas (DPS) to provide adequate training to each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under Chapter 17 (Bail), as necessary to enable the person to fulfill those requirements.

Art. 17.0502. COMPLETION OF BAIL FORM. (a) Requires each magistrate, judge, sheriff, peace officer, or jailer to, at the time the person sets bail for a defendant under Chapter 17, complete the form promulgated by the Office of Court Administration of the Texas Judicial System (OCA) under Section 72.036, Government Code.

(b) Requires a person completing a form under this article to deliver the completed form to OCA as soon as is practicable.

Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) Defines "charitable bail organization."

(b) Provides that this article does not apply to a charitable bail organization that pays a bail bond for not more than three defendants in any 180-day period.

(c) Requires a charitable bail organization to file in the office of the county clerk of each county where the organization intends to pay bail bonds an affidavit designating the individuals authorized to pay bonds on behalf of the organization.

(d) Authorizes a charitable bail organization to only pay bail bonds for indigent defendants who are not charged with an offense involving violence, as defined by Article 17.15(b) and who have not previously been convicted of an offense involving violence, as defined by Article 17.15(b).

(e) Requires a charitable bail organization, not later than the 10th day of each month, to submit to the sheriff of each county in which the organization files an affidavit under Subsection (c), a report that includes certain information for each defendant for whom the organization paid a bail bond in the preceding calendar month.

(f) Prohibits a charitable bail organization from paying a bail bond for a defendant at any time the organization is considered to be out of compliance with the reporting requirements of this article.

(g) Authorizes a sheriff to suspend a charitable bail organization from paying bail bonds in the sheriff's county for one year if the sheriff determines the organization has paid bonds in violation of this article.

(h) Provides that Chapter 22 (Forfeiture of Bail) applies to a bail bond paid by a charitable bail organization.

(i) Prohibits a charitable bail organization from accepting a premium or compensation for paying a bail bond for a defendant.

SECTION 4. Amends Article 17.15, Code of Criminal Procedure, as follows:

Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. (a) Creates this subsection from existing text. Provides that the amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. and 2. makes no changes to these rules.

3. Provides that the nature of the offense and the circumstances under which it was committed are to be considered, including whether the offense is an offense involving violence and whether the violence was directed against a peace officer.

4. and 5. makes no changes to these rules.

6. Provides that the criminal history of the defendant, including any other pending criminal charges and any instances in which the defendant failed to appear in court following release on bail, is to be considered.

7. Provides that the citizenship status of the defendant is to be considered.

(b) Defines "offense involving violence."

SECTION 5. Amends Chapter 17, Code of Criminal Procedure, by adding Articles 17.1501 and 17.1502, as follows:

Art. 17.1501. CONTINUING EDUCATION. (a) Requires a judge or magistrate with the authority to set bail for defendants to, within one year after the date the judge or magistrate first assumes office, successfully complete a four-hour course with respect to the judge's or magistrate's duties under Article 15.17 and setting bail in criminal cases.

(b) Requires a judge or magistrate described by Subsection (a), each following year, to successfully complete a two-hour course with respect to the judge's or magistrate's duties under Article 15.17 and setting bail in criminal cases.

(c) Authorizes the courses to be completed through a course in bail bond law that is approved by the State Bar of Texas and that is offered by a public or accredited private institution of higher education in this state or through a program approved by a justice court education committee.

Art. 17.1502. BAIL SCHEDULE; HEARING. (a) Authorizes the judges of the courts trying criminal cases in a county to promulgate a standing order setting out a schedule of suggested bail amounts for any offense over which the courts have jurisdiction under Chapter 4 (Courts and Criminal Jurisdiction).

(b) Requires that a standing order promulgated in accordance with this article require that the factors under Article 17.15 be considered before a defendant's bail is set.

(c) Requires that a defendant who is unable to give bail in the amount required by the schedule to be given an opportunity to file with the applicable magistrate a sworn affidavit in substantially a certain form. Sets forth the language of the sworn affidavit.

(d) Requires OCA to promulgate a form to be completed by a defendant filing an affidavit under Subsection (c) to allow a magistrate to assess information relevant to the defendant's financial situation. Requires that the form collect, at a minimum, certain information.

(e) Entitles a defendant who files an affidavit under Subsection (c) to a hearing before the magistrate on the bail amount. Requires that the hearing be held not later than 48 hours after the affidavit is filed. Requires the magistrate, at the hearing, to require the defendant to sign the form described by Subsection (d) in the presence of the magistrate and under penalty of perjury. Requires the magistrate, after the form is signed, to consider the facts stated in the form and the rules established by Article 17.15 and to set the defendant's bail. Requires the magistrate to issue oral or written findings of fact supporting the bail decision.

SECTION 6. Amends Article 17.20, Code of Criminal Procedure, as follows:

Art. 17.20. BAIL IN MISDEMEANOR. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires the sheriff, peace officer, or jailer, before taking a bail bond under this article, to obtain the defendant's criminal history record information. Provides that if the defendant is charged with an offense involving violence or has previously been convicted of an offense involving violence, the sheriff, officer, or jailer is prohibited from setting the amount of the defendant's bail but is authorized to take of the defendant a bail bond in the amount fixed by the court. Defines "offense involving violence."

SECTION 7. Amends Article 17.22, Code of Criminal Procedure, as follows:

Art. 17.22. MAY TAKE BAIL IN FELONY. (a) Creates this subsection from existing text and makes nonsubstantive changes.

(b) Requires the sheriff, peace officer, or jailer, before taking a bail bond under this article, to obtain the defendant's criminal history record information. Provides that if the defendant is charged with an offense involving violence or has previously been convicted of an offense involving violence, the sheriff, officer, or jailer is prohibited from setting the amount of the defendant's bail but is authorized to take of the defendant a bail bond in the amount fixed by the court. Defines "offense involving violence."

SECTION 8. Amends Section 27.005, Government Code, as follows:

Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) Provides that for purposes of removal under Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete certain educational requirements, including, within one year after the date the justice is first elected, the course described by Article 17.1501(a), Code of Criminal Procedure, and, each following year, the course described by Article 17.1501(b), Code of Criminal Procedure. Makes nonsubstantive changes.

(b) Authorizes the courses described by Subsections (a)(1)(A) and (a)(2)(A) (relating to certain courses in the performance of the justice's duties) to be completed in an accredited state-supported school of higher education.

SECTION 9. Amends Subchapter C, Chapter 71, Government Code, by adding Section 71.0351, as follows:

Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a) Requires the clerk of each court setting bail in criminal cases, as a component of the official monthly report submitted to OCA under Section 71.035, to report certain bail-related information.

(b) Requires OCA to post the information in a publicly accessible place on its website without disclosing any personal information of any defendant, judge, or magistrate.

SECTION 10. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.036, as follows:

Sec. 72.036. BAIL FORM. (a) Requires OCA to promulgate a form to be completed each time a magistrate, judge, sheriff, peace officer, or jailer sets a defendant's bail under Chapter 17, Code of Criminal Procedure.

(b) Sets forth requirements of the form.

(c) Requires OCA to publish each form submitted under Article 17.0502, Code of Criminal Procedure, in a database that is publicly accessible on OCA's Internet website.

SECTION 11. Amends Article 66.102(c), Code of Criminal Procedure, as follows:

(c) Requires that information in the computerized criminal history system relating to an arrest include certain information, including, for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court. Makes nonsubstantive changes.

SECTION 12. Requires a judge or magistrate who is serving on the effective date of this Act to complete the judge's or magistrate's:

(1) initial training under Article 17.1501(a), Code of Criminal Procedure, as added by this Act, not later than September 1, 2022; and

(2) first required course under Article 17.1501(b), Code of Criminal Procedure, as added by this Act, not later than September 1, 2023.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2021.