

1-1 By: Huffman, Bettencourt S.B. No. 6
1-2 (In the Senate - Filed July 8, 2021; July 8, 2021, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 July 12, 2021, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; July 12, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to rules for setting the amount of bail, to the release of
1-16 certain defendants on a monetary bond or personal bond, to related
1-17 duties of certain officers taking bail bonds and of a magistrate in
1-18 a criminal case, to charitable bail organizations, and to the
1-19 reporting of information pertaining to bail bonds.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. This Act may be cited as the Damon Allen Act.

1-22 SECTION 2. Article 1.07, Code of Criminal Procedure, is
1-23 amended to read as follows:

1-24 Art. 1.07. RIGHT TO BAIL. Any person ~~[All prisoners]~~ shall
1-25 be eligible for bail ~~[bailable]~~ unless denial of bail is expressly
1-26 permitted by the Texas Constitution or by other law ~~[for capital~~
1-27 ~~offenses when the proof is evident]~~. This provision may ~~[shall]~~ not
1-28 be ~~[so]~~ construed ~~[as]~~ to prevent bail after indictment found upon
1-29 examination of the evidence, in such manner as may be prescribed by
1-30 law.

1-31 SECTION 3. Article 17.02, Code of Criminal Procedure, is
1-32 amended to read as follows:

1-33 Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a
1-34 written undertaking entered into by the defendant and the
1-35 defendant's sureties for the appearance of the principal therein
1-36 before a court or magistrate to answer a criminal accusation;
1-37 provided, however, that the defendant on execution of the bail bond
1-38 may deposit with the custodian of funds of the court in which the
1-39 prosecution is pending current money of the United States in the
1-40 amount of the bond in lieu of having sureties signing the same. Any
1-41 cash funds deposited under this article shall be receipted for by
1-42 the officer receiving the funds and, on order of the court, be
1-43 refunded in the amount shown on the face of the receipt less the
1-44 administrative fee authorized by Section 117.055, Local Government
1-45 Code, if applicable, after the defendant complies with the
1-46 conditions of the defendant's bond, to:

1-47 (1) any person in the name of whom a receipt was
1-48 issued, including the defendant if a receipt was issued to the
1-49 defendant; or

1-50 (2) the defendant, if no other person is able to
1-51 produce a receipt for the funds.

1-52 SECTION 4. Chapter 17, Code of Criminal Procedure, is
1-53 amended by adding Articles 17.021, 17.022, 17.023, 17.024, 17.027,
1-54 and 17.028 to read as follows:

1-55 Art. 17.021. PUBLIC SAFETY REPORT SYSTEM. (a) The Office
1-56 of Court Administration of the Texas Judicial System shall develop
1-57 and maintain a public safety report system that is available for use
1-58 for purposes of Article 17.15.

1-59 (b) The public safety report system must:

1-60 (1) state the requirements for setting bail under
1-61 Article 17.15;

2-1 (2) provide identifying information regarding the
2-2 defendant, the case filed against the defendant, and the offense
2-3 with which the defendant is charged;

2-4 (3) provide information on the eligibility of the
2-5 defendant for a personal bond;

2-6 (4) provide information regarding the applicability
2-7 of any required or discretionary bond conditions; and

2-8 (5) provide, in summary form, the criminal history of
2-9 the defendant, including information regarding any:

2-10 (A) previous misdemeanor or felony convictions;

2-11 (B) pending charges;

2-12 (C) previous sentences imposing a term of
2-13 confinement;

2-14 (D) previous convictions or pending charges for
2-15 offenses involving violence as defined by Article 17.03; and

2-16 (E) previous failures of the defendant to appear
2-17 in court following release on bail.

2-18 (c) The office shall provide access to the public safety
2-19 report system to the appropriate officials in each county at no
2-20 cost. This subsection may not be construed to require the office to
2-21 provide a county official or magistrate with any equipment or
2-22 support related to accessing or using the public safety report
2-23 system.

2-24 (d) The public safety report system may not:

2-25 (1) be the only item relied on by a judge or magistrate
2-26 in making a bail decision;

2-27 (2) include a score, rating, or assessment of a
2-28 defendant's risk or make any recommendation regarding the
2-29 appropriate bail for the defendant; or

2-30 (3) include any information other than the information
2-31 listed in Subsection (b).

2-32 Art. 17.022. PUBLIC SAFETY REPORT. (a) A magistrate
2-33 considering the release on bail of a defendant charged with an
2-34 offense punishable as a Class B misdemeanor or any higher category
2-35 of offense shall order that:

2-36 (1) the personal bond office established under Article
2-37 17.42 for the county in which the defendant is being detained, or
2-38 other suitably trained person, use the public safety report system
2-39 developed under Article 17.021 to prepare a public safety report
2-40 with respect to the defendant; and

2-41 (2) the public safety report prepared under
2-42 Subdivision (1) be provided to the magistrate as soon as
2-43 practicable but not later than 48 hours after the defendant's
2-44 arrest.

2-45 (b) A magistrate may not, without the consent of the
2-46 sheriff, order a sheriff or sheriff's department personnel to
2-47 prepare a public safety report under Subsection (a).

2-48 (c) Notwithstanding Subsection (a), a magistrate may
2-49 personally prepare a public safety report, before or while making a
2-50 bail decision, using the public safety report system developed
2-51 under Article 17.021.

2-52 (d) The magistrate shall consider the public safety report
2-53 before setting bail.

2-54 Art. 17.023. AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES.

2-55 (a) This article applies only to a defendant charged with an
2-56 offense that is:

2-57 (1) punishable as a felony; or

2-58 (2) a misdemeanor punishable by confinement.

2-59 (b) Notwithstanding any other law, a defendant to whom this
2-60 article applies may be released on bail only by a magistrate who is:

2-61 (1) either:

2-62 (A) a resident of this state and one of the
2-63 counties served by the magistrate; or

2-64 (B) a justice of the peace serving under Section
2-65 27.054 or 27.055, Government Code; and

2-66 (2) in compliance with the training requirements of
2-67 Article 17.024.

2-68 (c) A magistrate is not eligible to release on bail a
2-69 defendant described by Subsection (a) if the magistrate:

3-1 (1) has been removed from office by impeachment, by
 3-2 the supreme court, by the governor on address to the legislature, by
 3-3 a tribunal reviewing a recommendation of the State Commission on
 3-4 Judicial Conduct, or by the legislature's abolition of the
 3-5 magistrate's court; or

3-6 (2) has resigned from office after having received
 3-7 notice that formal proceedings by the State Commission on Judicial
 3-8 Conduct have been instituted as provided by Section 33.022,
 3-9 Government Code, and before final disposition of the proceedings.

3-10 Art. 17.024. TRAINING ON DUTIES REGARDING BAIL. (a) The
 3-11 Office of Court Administration of the Texas Judicial System shall,
 3-12 in consultation with the court of criminal appeals, develop or
 3-13 approve training courses regarding a magistrate's duties,
 3-14 including duties with respect to setting bail in criminal cases.
 3-15 The courses developed must include:

3-16 (1) an eight-hour initial training course; and

3-17 (2) a two-hour continuing education course.

3-18 (b) The office shall provide for a method of certifying that
 3-19 a magistrate has successfully completed a training course required
 3-20 under this article and has demonstrated competency of the course
 3-21 content in a manner acceptable to the office.

3-22 (c) A magistrate is in compliance with the training
 3-23 requirements of this article if:

3-24 (1) not later than the 90th day after the date the
 3-25 magistrate takes office, the magistrate successfully completes the
 3-26 course described by Subsection (a)(1);

3-27 (2) the magistrate successfully completes the course
 3-28 described by Subsection (a)(2) in each subsequent state fiscal
 3-29 biennium in which the magistrate serves; and

3-30 (3) the magistrate demonstrates competency in a manner
 3-31 acceptable to the office.

3-32 (c-1) Notwithstanding Subsection (c), a magistrate who is
 3-33 serving on December 1, 2021, is considered to be in compliance with
 3-34 Subsection (c)(1) if the magistrate successfully completes the
 3-35 training course not later than July 1, 2022. This subsection
 3-36 expires February 1, 2023.

3-37 (d) Any course developed or approved by the office under
 3-38 this article may be administered by the Texas Justice Court
 3-39 Training Center, the Texas Municipal Courts Education Center, the
 3-40 Texas Association of Counties, the Texas Center for the Judiciary,
 3-41 or a similar entity.

3-42 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH
 3-43 OFFENSE COMMITTED WHILE ON BAIL. (a) Notwithstanding any other
 3-44 law, if a defendant is charged with committing an offense while
 3-45 released on bail for another offense:

3-46 (1) if the subsequent offense was committed in the
 3-47 same county as the previous offense, only the court before whom the
 3-48 case for the previous offense is pending may release the defendant
 3-49 on bail; and

3-50 (2) if the subsequent offense was committed in a
 3-51 different county than the previous offense, electronic notice of
 3-52 the charge must be promptly given to the court specified by
 3-53 Subdivision (1) for purposes of reevaluating the bail decision,
 3-54 determining whether any bail conditions were violated, or taking
 3-55 any other applicable action.

3-56 (b) This article may not be construed to extend any deadline
 3-57 provided by Article 15.17.

3-58 Art. 17.028. BAIL DECISION. (a) Without unnecessary delay
 3-59 but not later than 48 hours after a defendant is arrested, a
 3-60 magistrate shall order, after individualized consideration of all
 3-61 circumstances and of the factors required by Article 17.15(a), that
 3-62 the defendant be:

3-63 (1) granted personal bond with or without conditions;

3-64 (2) granted monetary bond with or without conditions;

3-65 or

3-66 (3) denied bail in accordance with the Texas
 3-67 Constitution and other law.

3-68 (b) In setting bail under this article, the magistrate shall
 3-69 impose the least restrictive conditions, if any, and the personal

4-1 bond or monetary bond necessary to reasonably ensure the
 4-2 defendant's appearance in court as required and the safety of the
 4-3 community, law enforcement, and the victim of the alleged offense.

4-4 (c) In each criminal case, unless specifically provided by
 4-5 other law, there is a rebuttable presumption that bail, conditions
 4-6 of release, or both bail and conditions of release are sufficient to
 4-7 reasonably ensure the defendant's appearance in court as required
 4-8 and the safety of the community, law enforcement, and the victim of
 4-9 the alleged offense. For purposes of setting bail or rebutting the
 4-10 presumption, the court may not consider testimonial evidence.

4-11 (d) A judge may not adopt a bail schedule or enter a standing
 4-12 order related to bail that:

4-13 (1) is inconsistent with this article; or

4-14 (2) authorizes a magistrate to make a bail decision
 4-15 for a defendant without considering each of the factors in Article
 4-16 17.15(a).

4-17 (e) A defendant who is denied bail or who is unable to give
 4-18 bail in the amount required by any bail schedule or standing order
 4-19 related to bail shall be provided with the warnings described by
 4-20 Article 15.17.

4-21 (f) A defendant who claims to be unable to give bail as
 4-22 described by Subsection (e) may file with the applicable magistrate
 4-23 a sworn affidavit in substantially the following form:

4-24 "On this ___ day of _____, 2____, I have been advised by the
 4-25 (name of the court) Court of the importance of providing true and
 4-26 complete information about my financial situation in connection
 4-27 with the charge pending against me. I am without means to pay
 4-28 _____ and I hereby request the court to set an appropriate bail.
 4-29 (signature of defendant)."

4-30 (g) A defendant filing an affidavit under Subsection (f)
 4-31 shall complete a form to allow a magistrate to assess information
 4-32 relevant to the defendant's financial situation. The form must be
 4-33 the form used to request appointment of counsel under Article 26.04
 4-34 or a form promulgated by the Office of Court Administration of the
 4-35 Texas Judicial System that collects, at a minimum and to the best of
 4-36 the defendant's knowledge, the following information:

4-37 (1) any income received by the defendant and the
 4-38 defendant's spouse in the preceding two years;

4-39 (2) the defendant's employment history and the
 4-40 employment history of the defendant's spouse, including gross
 4-41 monthly pay, for the preceding two years;

4-42 (3) any cash holdings available to the defendant or
 4-43 the defendant's spouse and the financial institution in which the
 4-44 cash is held;

4-45 (4) the defendant's major noncash assets, including
 4-46 real estate and motor vehicles;

4-47 (5) money owed to the defendant or to the defendant's
 4-48 spouse;

4-49 (6) any dependents of the defendant or of the
 4-50 defendant's spouse, and the dependents' ages;

4-51 (7) an itemized estimate of the defendant's monthly
 4-52 expenses;

4-53 (8) an estimate of the defendant's tax and legal
 4-54 expenses;

4-55 (9) any anticipated major changes in the defendant's
 4-56 income or expenses; and

4-57 (10) any additional relevant information the
 4-58 defendant is able to provide to explain the defendant's inability
 4-59 to pay bail according to the schedule.

4-60 (h) A defendant who files an affidavit under Subsection (f)
 4-61 is entitled to a hearing before the magistrate on the bail amount.
 4-62 The hearing must be held not later than 48 hours after the defendant
 4-63 is arrested. At the hearing, the defendant must be given the
 4-64 opportunity to present evidence and respond to evidence presented
 4-65 by the attorney representing the state. After the hearing, the
 4-66 magistrate shall consider the facts presented and the rules
 4-67 established by Article 17.15(a) and shall set the defendant's bail.
 4-68 If the magistrate does not set the defendant's bail in an amount
 4-69 below the amount required by the schedule, the magistrate shall

5-1 issue written findings of fact supporting the bail decision.
 5-2 (i) The judges of the courts trying criminal cases in a
 5-3 county must report to the Office of Court Administration of the
 5-4 Texas Judicial System each defendant for whom a hearing under
 5-5 Subsection (h) was not held within 48 hours of the defendant's
 5-6 arrest. If a delay occurs that will cause the hearing under
 5-7 Subsection (h) to be held later than 48 hours after the defendant's
 5-8 arrest, the magistrate or an employee of the court or of the county
 5-9 in which the defendant is confined must notify the defendant's
 5-10 counsel of the delay.

5-11 (j) The magistrate may enter an order or take other action
 5-12 authorized by Article 16.22 with respect to a defendant who does not
 5-13 appear competent to execute an affidavit under Subsection (f).

5-14 (k) This article may not be construed to require the filing
 5-15 of an affidavit before a magistrate considers the defendant's
 5-16 ability to make bail under Article 17.15.

5-17 (l) A written or oral statement obtained under this article
 5-18 or evidence derived from the statement may be used only to determine
 5-19 whether the defendant is indigent, to impeach the direct testimony
 5-20 of the defendant, or to prosecute the defendant for an offense under
 5-21 Chapter 37, Penal Code.

5-22 SECTION 5. Article 17.03, Code of Criminal Procedure, as
 5-23 effective September 1, 2021, is amended by amending Subsection (b)
 5-24 and adding Subsections (b-2) and (b-3) to read as follows:

5-25 (b) Only the court before whom the case is pending may
 5-26 release on personal bond a defendant who:

5-27 (1) is charged with an offense under the following
 5-28 sections of the Penal Code:

- 5-29 (A) ~~[Section 19.03 (Capital Murder)];~~
- 5-30 ~~[(B) Section 20.04 (Aggravated Kidnapping)];~~
- 5-31 ~~[(C) Section 22.021 (Aggravated Sexual Assault)];~~
- 5-32 ~~[(D) Section 22.03 (Deadly Assault on Law~~
- 5-33 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
- 5-34 ~~Pardons and Paroles, or Court Participant)];~~
- 5-35 ~~[(E) Section 22.04 (Injury to a Child, Elderly~~
- 5-36 ~~Individual, or Disabled Individual)];~~
- 5-37 ~~[(F) Section 29.03 (Aggravated Robbery)];~~
- 5-38 ~~[(G)] Section 30.02 (Burglary); or~~
- 5-39 ~~(B) [(H)] Section 71.02 (Engaging in Organized~~
- 5-40 ~~Criminal Activity);~~
- 5-41 ~~[(I) Section 21.02 (Continuous Sexual Abuse of~~
- 5-42 ~~Young Child or Disabled Individual)]; or~~
- 5-43 ~~[(J) Section 20A.03 (Continuous Trafficking of~~
- 5-44 ~~Persons)];~~

5-45 (2) is charged with a felony under Chapter 481, Health
 5-46 and Safety Code, or Section 485.033, Health and Safety Code,
 5-47 punishable by imprisonment for a minimum term or by a maximum fine
 5-48 that is more than a minimum term or maximum fine for a first degree
 5-49 felony; or

5-50 (3) does not submit to testing for the presence of a
 5-51 controlled substance in the defendant's body as requested by the
 5-52 court or magistrate under Subsection (c) of this article or submits
 5-53 to testing and the test shows evidence of the presence of a
 5-54 controlled substance in the defendant's body.

5-55 (b-2) Notwithstanding any other law, a defendant may not be
 5-56 released on personal bond if the defendant:

- 5-57 (1) is charged with an offense involving violence; or
- 5-58 (2) while released on bail or community supervision
- 5-59 for an offense involving violence, is charged with committing:
- 5-60 (A) any offense punishable as a felony; or
- 5-61 (B) an offense under the following provisions of

5-62 the Penal Code:

- 5-63 (i) Section 22.01(a)(1) (assault);
- 5-64 (ii) Section 22.05 (deadly conduct);
- 5-65 (iii) Section 22.07 (terroristic threat);

5-66 or

- 5-67 (iv) Section 42.01(a)(7) or (8) (disorderly
- 5-68 conduct involving firearm).

5-69 (b-3) In this article:

- 6-1 (1) "Controlled substance" has the meaning assigned by
- 6-2 Section 481.002, Health and Safety Code.
- 6-3 (2) "Offense involving violence" means an offense
- 6-4 under the following provisions of the Penal Code:
- 6-5 (A) Section 19.02 (murder);
- 6-6 (B) Section 19.03 (capital murder);
- 6-7 (C) Section 20.03 (kidnapping);
- 6-8 (D) Section 20.04 (aggravated kidnapping);
- 6-9 (E) Section 20A.02 (trafficking of persons);
- 6-10 (F) Section 20A.03 (continuous trafficking of
- 6-11 persons);
- 6-12 (G) Section 21.02 (continuous sexual abuse of
- 6-13 young child or disabled individual);
- 6-14 (H) Section 21.11 (indecenty with a child);
- 6-15 (I) Section 22.01(a)(1) (assault), if the
- 6-16 offense:
- 6-17 (i) is punishable as a felony of the second
- 6-18 degree under Subsection (b-2) of that section; or
- 6-19 (ii) involved family violence as defined by
- 6-20 Section 71.004, Family Code;
- 6-21 (J) Section 22.011 (sexual assault);
- 6-22 (K) Section 22.02 (aggravated assault);
- 6-23 (L) Section 22.021 (aggravated sexual assault);
- 6-24 (M) Section 22.04 (injury to a child, elderly
- 6-25 individual, or disabled individual);
- 6-26 (N) Section 25.072 (repeated violation of
- 6-27 certain court orders or conditions of bond in family violence,
- 6-28 child abuse or neglect, sexual assault or abuse, indecent assault,
- 6-29 stalking, or trafficking case);
- 6-30 (O) Section 25.11 (continuous violence against
- 6-31 the family);
- 6-32 (P) Section 29.03 (aggravated robbery);
- 6-33 (Q) Section 38.14 (taking or attempting to take
- 6-34 weapon from peace officer, federal special investigator, employee
- 6-35 or official of correctional facility, parole officer, community
- 6-36 supervision and corrections department officer, or commissioned
- 6-37 security officer);
- 6-38 (R) Section 43.04 (aggravated promotion of
- 6-39 prostitution);
- 6-40 (S) Section 43.05 (compelling prostitution); or
- 6-41 (T) Section 43.25 (sexual performance by a
- 6-42 child).

6-43 SECTION 6. Chapter 17, Code of Criminal Procedure, is

6-44 amended by adding Articles 17.0501 and 17.071 to read as follows:

6-45 Art. 17.0501. REQUIRED TRAINING. The Department of Public

6-46 Safety shall develop training courses that relate to the use of the

6-47 statewide telecommunications system maintained by the department

6-48 and that are directed to each magistrate, judge, sheriff, peace

6-49 officer, or jailer required to obtain criminal history record

6-50 information under this chapter, as necessary to enable the person

6-51 to fulfill those requirements.

6-52 Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) In this

6-53 article, "charitable bail organization" means a person who solicits

6-54 donations from the public for the purpose of depositing money with a

6-55 court in the amount of a defendant's bail bond. The term does not

6-56 include:

- 6-57 (1) a person soliciting donations with respect to a
- 6-58 defendant who is a member of the person's family, as determined
- 6-59 under Section 71.003, Family Code; or
- 6-60 (2) a nonprofit corporation organized for the purpose
- 6-61 of religious worship.
- 6-62 (b) This article does not apply to a charitable bail
- 6-63 organization that pays a bail bond for not more than three
- 6-64 defendants in any 180-day period.
- 6-65 (c) A charitable bail organization shall file in the office
- 6-66 of the county clerk of each county where the organization intends to
- 6-67 pay bail bonds an affidavit designating the individuals authorized
- 6-68 to pay bonds on behalf of the organization.
- 6-69 (d) A charitable bail organization may only pay bail bonds

7-1 for indigent defendants who:

7-2 (1) are not charged with an offense involving violence
7-3 as defined by Article 17.03; and

7-4 (2) have not previously been convicted of an offense
7-5 involving violence as defined by Article 17.03.

7-6 (e) Not later than the 10th day of each month, a charitable
7-7 bail organization shall submit, to the sheriff of each county in
7-8 which the organization files an affidavit under Subsection (c), a
7-9 report that includes the following information for each defendant
7-10 for whom the organization paid a bail bond in the preceding calendar
7-11 month:

7-12 (1) the name of the defendant;

7-13 (2) the cause number of the case;

7-14 (3) the county in which the applicable charge is
7-15 pending, if different from the county in which the bond was paid;
7-16 and

7-17 (4) any dates on which the defendant has failed to
7-18 appear in court as required for the charge for which the bond was
7-19 paid.

7-20 (f) A charitable bail organization may not pay a bail bond
7-21 for a defendant at any time the organization is considered to be out
7-22 of compliance with the reporting requirements of this article.

7-23 (g) A sheriff may suspend a charitable bail organization
7-24 from paying bail bonds in the sheriff's county for one year if the
7-25 sheriff determines the organization has paid bonds in violation of
7-26 this article.

7-27 (h) Chapter 22 applies to a bail bond paid by a charitable
7-28 bail organization.

7-29 (i) A charitable bail organization may not accept a premium
7-30 or compensation for paying a bail bond for a defendant.

7-31 SECTION 7. Article 17.15, Code of Criminal Procedure, is
7-32 amended to read as follows:

7-33 Art. 17.15. RULES FOR SETTING [~~FIXING~~] AMOUNT OF BAIL. (a)
7-34 The amount of bail and any conditions of bail to be required in any
7-35 case are [~~is~~] to be regulated by the court, judge, magistrate, or
7-36 officer taking the bail in accordance with Articles 17.20, 17.21,
7-37 and 17.22 and [~~they~~] are [~~to be~~] governed [~~in the exercise of this~~
7-38 discretion] by the Constitution and [~~by~~] the following rules:

7-39 1. Bail and any conditions of bail [~~The bail~~] shall be
7-40 sufficient [~~sufficiently high~~] to give reasonable assurance that
7-41 the undertaking will be complied with.

7-42 2. The power to require bail is not to be [~~so~~] used
7-43 [~~as~~] to make bail [~~it~~] an instrument of oppression.

7-44 3. The nature of the offense and the circumstances
7-45 under which the offense [~~it~~] was committed are to be considered,
7-46 including whether the offense:

7-47 (A) is an offense involving violence as defined
7-48 by Article 17.03; or

7-49 (B) involves violence directed against a peace
7-50 officer.

7-51 4. The ability to make bail shall [~~is to~~] be considered
7-52 [~~regarded~~], and proof may be taken on [~~upon~~] this point.

7-53 5. The future safety of a victim of the alleged
7-54 offense, law enforcement, and the community shall be considered.

7-55 6. The criminal history record information for the
7-56 defendant, including information obtained through the statewide
7-57 telecommunications system maintained by the Department of Public
7-58 Safety and through the public safety report system developed under
7-59 Article 17.021, shall be considered, including any acts of family
7-60 violence, other pending criminal charges, and any instances in
7-61 which the defendant failed to appear in court following release on
7-62 bail.

7-63 7. The citizenship status of the defendant shall be
7-64 considered.

7-65 (b) For purposes of determining whether clear and
7-66 convincing evidence exists to deny a person bail under Section 11d,
7-67 Article I, Texas Constitution, a magistrate shall consider all
7-68 information relevant to the factors listed in Subsection (a).

7-69 (c) In this article, "family violence" has the meaning

8-1 assigned by Section 71.004, Family Code.

8-2 SECTION 8. Article 17.20, Code of Criminal Procedure, is
8-3 amended to read as follows:

8-4 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of
8-5 misdemeanor, the sheriff or other peace officer, or a jailer
8-6 licensed under Chapter 1701, Occupations Code, may, whether during
8-7 the term of the court or in vacation, where the officer has a
8-8 defendant in custody, take the defendant's [~~of the defendant a~~]
8-9 bail [~~bond~~].

8-10 (b) Before taking bail under this article, the sheriff,
8-11 peace officer, or jailer shall obtain the defendant's criminal
8-12 history record information through the statewide
8-13 telecommunications system maintained by the Department of Public
8-14 Safety and through the public safety report system developed under
8-15 Article 17.021.

8-16 (c) If the defendant is charged with or has previously been
8-17 convicted of an offense involving violence as defined by Article
8-18 17.03, the sheriff, officer, or jailer may not set the amount of the
8-19 defendant's bail but may take the defendant's bail in the amount set
8-20 by the court.

8-21 SECTION 9. Article 17.22, Code of Criminal Procedure, is
8-22 amended to read as follows:

8-23 Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case,
8-24 if the court before which the case [~~same~~] is pending is not in
8-25 session in the county where the defendant is in custody, the sheriff
8-26 or other peace officer, or a jailer licensed under Chapter 1701,
8-27 Occupations Code, who has the defendant in custody may take the
8-28 defendant's bail [~~bond~~] in the [~~such~~] amount set [~~as may have been~~
8-29 ~~fixed~~] by the court or magistrate, or if no amount has been set
8-30 [~~fixed~~], then in any [~~such~~] amount that the [~~as such~~] officer
8-31 considers [~~may consider~~] reasonable and that is in compliance with
8-32 Article 17.15.

8-33 (b) Before taking bail under this article, the sheriff,
8-34 peace officer, or jailer shall obtain the defendant's criminal
8-35 history record information through the statewide
8-36 telecommunications system maintained by the Department of Public
8-37 Safety and through the public safety report system developed under
8-38 Article 17.021.

8-39 (c) If the defendant is charged with or has previously been
8-40 convicted of an offense involving violence as defined by Article
8-41 17.03, the sheriff, officer, or jailer may not set the amount of the
8-42 defendant's bail but may take the defendant's bail in the amount set
8-43 by the court.

8-44 SECTION 10. Chapter 17, Code of Criminal Procedure, is
8-45 amended by adding Articles 17.51, 17.52, and 17.53 to read as
8-46 follows:

8-47 Art. 17.51. NOTICE OF CONDITIONS. (a) As soon as
8-48 practicable but not later than the next business day after the date
8-49 a magistrate issues an order imposing a condition of release on bond
8-50 for a defendant or modifying or removing a condition previously
8-51 imposed, the clerk of the court shall send a copy of the order to:

8-52 (1) the appropriate attorney representing the state;
8-53 and

8-54 (2) either:

8-55 (A) the chief of police in the municipality where
8-56 the defendant resides, if the defendant resides in a municipality;
8-57 or

8-58 (B) the sheriff of the county where the defendant
8-59 resides, if the defendant does not reside in a municipality.

8-60 (b) A clerk of the court may delay sending a copy of the
8-61 order under Subsection (a) only if the clerk lacks information
8-62 necessary to ensure service and enforcement.

8-63 (c) If an order described by Subsection (a) prohibits a
8-64 defendant from going to or near a child care facility or school, the
8-65 clerk of the court shall send a copy of the order to the child care
8-66 facility or school.

8-67 (d) The copy of the order and any related information may be
8-68 sent electronically or in another manner that can be accessed by the
8-69 recipient.

9-1 (e) The magistrate or the magistrate's designee shall
 9-2 provide written notice to the defendant of:

- 9-3 (1) the conditions of release on bond; and
 9-4 (2) the penalties for violating a condition of
 9-5 release.

9-6 (f) The magistrate shall make a separate record of the
 9-7 notice provided to the defendant under Subsection (e).

9-8 (g) The Office of Court Administration of the Texas Judicial
 9-9 System shall promulgate a form for use by a magistrate or a
 9-10 magistrate's designee in providing notice to the defendant under
 9-11 Subsection (e). The form must include the relevant statutory
 9-12 language from the provisions of this chapter under which a
 9-13 condition of release on bond may be imposed on a defendant.

9-14 Art. 17.52. REPORTING OF CONDITIONS. A chief of police or
 9-15 sheriff who receives a copy of an order described by Article
 9-16 17.51(a), or the chief's or sheriff's designee, shall, as soon as
 9-17 practicable but not later than the 10th day after the date the copy
 9-18 is received, enter information relating to the condition of release
 9-19 into the appropriate database of the statewide law enforcement
 9-20 information system maintained by the Department of Public Safety or
 9-21 modify or remove information, as appropriate.

9-22 Art. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND.
 9-23 The Office of Court Administration of the Texas Judicial System
 9-24 shall develop statewide procedures and prescribe forms to be used
 9-25 by a court to facilitate:

- 9-26 (1) the refund of any cash funds paid toward a monetary
 9-27 bond, with an emphasis on refunding those funds to the person in
 9-28 whose name the receipt described by Article 17.02 was issued; and
 9-29 (2) the application of those cash funds to the
 9-30 defendant's outstanding court costs, fines, and fees.

9-31 SECTION 11. Article 66.102(c), Code of Criminal Procedure,
 9-32 is amended to read as follows:

9-33 (c) Information in the computerized criminal history system
 9-34 relating to an arrest must include:

- 9-35 (1) the offender's name;
 9-36 (2) the offender's state identification number;
 9-37 (3) the arresting law enforcement agency;
 9-38 (4) the arrest charge, by offense code and incident
 9-39 number;
 9-40 (5) whether the arrest charge is a misdemeanor or
 9-41 felony;
 9-42 (6) the date of the arrest;
 9-43 (7) for an offender released on bail, whether a
 9-44 warrant was issued for any subsequent failure of the offender to
 9-45 appear in court;
 9-46 (8) the exact disposition of the case by a law
 9-47 enforcement agency following the arrest; and
 9-48 (9) ~~(8)~~ the date of disposition of the case by the
 9-49 law enforcement agency.

9-50 SECTION 12. Section 27.005, Government Code, is amended to
 9-51 read as follows:

9-52 Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes of
 9-53 removal under Chapter 87, Local Government Code, "incompetency" in
 9-54 the case of a justice of the peace includes the failure of the
 9-55 justice to successfully complete:

- 9-56 (1) within one year after the date the justice is first
 9-57 elected:
 9-58 (A) ~~(7)~~ an 80-hour course in the performance of
 9-59 the justice's duties;
 9-60 (B) the course described by Article
 9-61 17.024(a)(1), Code of Criminal Procedure; and
 9-62 (C) the course described by Article 17.0501, Code
 9-63 of Criminal Procedure;
 9-64 (2) each following year, a 20-hour course in the
 9-65 performance of the justice's duties, including not less than 10
 9-66 hours of instruction regarding substantive, procedural, and
 9-67 evidentiary law in civil matters; and
 9-68 (3) each following state fiscal biennium, the course
 9-69 described by Article 17.024(a)(2), Code of Criminal Procedure.

10-1 (b) The courses described by Subsections (a)(1)(A) and
 10-2 (a)(2) may be completed in an accredited state-supported school of
 10-3 higher education.

10-4 SECTION 13. Subchapter C, Chapter 71, Government Code, is
 10-5 amended by adding Section 71.0351 to read as follows:

10-6 Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a)
 10-7 As a component of the official monthly report submitted to the
 10-8 Office of Court Administration of the Texas Judicial System under
 10-9 Section 71.035, the clerk of each court setting bail in criminal
 10-10 cases shall report:

10-11 (1) the number of defendants for whom bail was set,
 10-12 including:

10-13 (A) the number for each category of offense;

10-14 (B) the number of personal bonds; and

10-15 (C) the number of monetary bonds;

10-16 (2) the number of defendants released on bail who
 10-17 subsequently failed to appear;

10-18 (3) the number of defendants released on bail who
 10-19 subsequently violated a condition of release; and

10-20 (4) the number of defendants who committed an offense
 10-21 while released on bail or community supervision.

10-22 (b) The office shall post the information in a publicly
 10-23 accessible place on the agency's Internet website without
 10-24 disclosing any personal information of any defendant, judge, or
 10-25 magistrate.

10-26 (c) Not later than December 1 of each year, the office shall
 10-27 submit a report containing the data collected under this section
 10-28 during the previous state fiscal year to the governor, the
 10-29 lieutenant governor, the speaker of the house of representatives,
 10-30 and the standing committees of each house of the legislature with
 10-31 jurisdiction over the judiciary.

10-32 SECTION 14. Subchapter C, Chapter 72, Government Code, is
 10-33 amended by adding Section 72.038 to read as follows:

10-34 Sec. 72.038. BAIL FORM. (a) The office shall promulgate a
 10-35 form to be completed by a magistrate, judge, sheriff, peace
 10-36 officer, or jailer who sets a defendant's bail under Chapter 17,
 10-37 Code of Criminal Procedure.

10-38 (b) The form must:

10-39 (1) state the cause number of the case, if available,
 10-40 the defendant's name and date of birth, and the offense for which
 10-41 the defendant was arrested;

10-42 (2) state the name and the office or position of the
 10-43 person setting bail;

10-44 (3) state the requirements for setting bail under
 10-45 Article 17.15, Code of Criminal Procedure, and list each factor
 10-46 provided by Article 17.15(a) of that code;

10-47 (4) require the person setting bail to:

10-48 (A) identify the bail type, the amount of the
 10-49 bail, and any conditions of bail;

10-50 (B) certify that the person considered each
 10-51 factor provided by Article 17.15(a), Code of Criminal Procedure;
 10-52 and

10-53 (C) certify that the person considered the
 10-54 information provided by the public safety report system developed
 10-55 under Article 17.021, Code of Criminal Procedure; and

10-56 (5) be signed by the person setting the bail.

10-57 (c) The person setting bail, an employee of the court that
 10-58 set the defendant's bail, or an employee of the county in which the
 10-59 defendant's bail was set must promptly and electronically provide
 10-60 the form required under this section to the office on completion of
 10-61 the form.

10-62 (d) The office shall publish each form submitted under this
 10-63 section in a database that is publicly accessible on the office's
 10-64 Internet website.

10-65 SECTION 15. Section 117.055, Local Government Code, is
 10-66 amended by amending Subsection (a) and adding Subsections (a-1) and
 10-67 (a-2) to read as follows:

10-68 (a) Except as provided by Subsection (a-1), to [To]
 10-69 compensate the county for the accounting and administrative

11-1 expenses incurred in handling the registry funds that have not
 11-2 earned interest, including funds in a special or separate account,
 11-3 the clerk shall, at the time of withdrawal, deduct from the amount
 11-4 of the withdrawal a fee in an amount equal to five percent of the
 11-5 withdrawal but that may not exceed \$50. Withdrawal of funds
 11-6 generated from a case arising under the Family Code is exempt from
 11-7 the fee deduction provided by this section.

11-8 (a-1) A clerk may not deduct a fee under Subsection (a) from
 11-9 a withdrawal of funds generated by the collection of a cash bond or
 11-10 cash bail bond if in the case for which the bond was taken:

11-11 (1) the defendant was found not guilty after a trial or
 11-12 appeal; or

11-13 (2) the complaint, information, or indictment was
 11-14 dismissed without a plea of guilty or nolo contendere being
 11-15 entered.

11-16 (a-2) On the request of a person to whom withdrawn funds
 11-17 generated by the collection of a cash bond or cash bail bond were
 11-18 disbursed, the clerk shall refund to the person the amount of the
 11-19 fee deducted under Subsection (a) if:

11-20 (1) subsequent to the deduction, a court makes or
 11-21 enters an order or ruling in the case for which the bond was taken;
 11-22 and

11-23 (2) had the court made or entered the order or ruling
 11-24 before the withdrawal of funds occurred, the deduction under
 11-25 Subsection (a) would have been prohibited under Subsection (a-1).

11-26 SECTION 16. Article 17.03(f), Code of Criminal Procedure,
 11-27 is repealed.

11-28 SECTION 17. As soon as practicable but not later than
 11-29 December 1, 2021, the Office of Court Administration of the Texas
 11-30 Judicial System shall create the public safety report system
 11-31 developed under Article 17.021, Code of Criminal Procedure, as
 11-32 added by this Act, and any related forms and materials and shall
 11-33 provide to the appropriate officials in each county access to the
 11-34 system, forms, and materials at no cost. If those items are made
 11-35 available before December 1, 2021, the office shall notify each
 11-36 court clerk, judge or other magistrate, and office of an attorney
 11-37 representing the state.

11-38 SECTION 18. (a) As soon as practicable but not later than
 11-39 December 1, 2021, the Office of Court Administration of the Texas
 11-40 Judicial System shall:

11-41 (1) promulgate the forms required by Articles
 11-42 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by
 11-43 this Act, and by Section 72.038, Government Code, as added by this
 11-44 Act; and

11-45 (2) develop or approve and make available the training
 11-46 courses and certification method as described by Article 17.024,
 11-47 Code of Criminal Procedure, as added by this Act, and develop the
 11-48 procedures and prescribe the forms required by Article 17.53, Code
 11-49 of Criminal Procedure, as added by this Act.

11-50 (b) If the items described by Subsection (a) of this section
 11-51 are made available before December 1, 2021, the office shall notify
 11-52 each court clerk, judge or other magistrate, and office of an
 11-53 attorney representing the state.

11-54 SECTION 19. Section 117.055, Local Government Code, as
 11-55 amended by this Act, applies only to a withdrawal of funds from a
 11-56 court registry under Section 117.055, Local Government Code, made
 11-57 on or after the effective date provided by Section 21(c) of this
 11-58 Act. A withdrawal of funds from a court registry made before the
 11-59 effective date provided by Section 21(c) of this Act is governed by
 11-60 the law in effect on the date the withdrawal was made, and the
 11-61 former law is continued in effect for that purpose.

11-62 SECTION 20. The changes in law made by this Act apply only
 11-63 to a person who is arrested on or after the effective date of this
 11-64 Act. A person arrested before the effective date of this Act is
 11-65 governed by the law in effect on the date the person was arrested,
 11-66 and the former law is continued in effect for that purpose.

11-67 SECTION 21. (a) Except as provided by Subsections (b) and
 11-68 (c) of this section, this Act takes effect December 1, 2021.

11-69 (b) Article 17.15(b), Code of Criminal Procedure, as added

12-1 by this Act, takes effect December 1, 2021, but only if the
12-2 constitutional amendment proposed by the 87th Legislature, 1st
12-3 Called Session, 2021, requiring a judge or magistrate to impose the
12-4 least restrictive conditions of bail that may be necessary and
12-5 authorizing the denial of bail under some circumstances to a person
12-6 accused of a violent or sexual offense or of continuous trafficking
12-7 of persons is approved by the voters. If that amendment is not
12-8 approved by the voters, Article 17.15(b), Code of Criminal
12-9 Procedure, has no effect.

12-10 (c) Articles 17.021 and 17.024, Code of Criminal Procedure,
12-11 as added by this Act, and Sections 3, 15, 17, 18, and 19 of this Act
12-12 take effect on the 91st day after the last day of the legislative
12-13 session.

12-14

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