

1-1 By: Huffman S.B. No. 21
 1-2 (In the Senate - Filed February 26, 2021; March 3, 2021,
 1-3 read first time and referred to Committee on Jurisprudence;
 1-4 April 8, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 3, Nays 0; April 8, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Huffman	X			
1-9 Hinojosa	X			
1-10 Creighton	X			
1-11 Hughes			X	
1-12 Johnson			X	

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 21 By: Huffman

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to rules for fixing the amount of bail, to the release of
 1-18 certain defendants on a bail bond or personal bond, to related
 1-19 duties of certain officers taking bail bonds and of a magistrate in
 1-20 a criminal case, to charitable bail organizations, and to the
 1-21 reporting of information pertaining to bail bonds.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 17, Code of Criminal Procedure, is
 1-24 amended by adding Article 17.027 to read as follows:

1-25 Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH
 1-26 OFFENSE COMMITTED WHILE ON BAIL. Notwithstanding any other law, if
 1-27 a defendant is charged with committing an offense while released on
 1-28 bail for another offense, only the court before whom the case for
 1-29 the previous offense is pending may release the defendant on bail.
 1-30 The defendant must be presented to the court within the period
 1-31 prescribed by Article 15.17, either in person or by means of
 1-32 videoconference, in accordance with that article.

1-33 SECTION 2. Article 17.03, Code of Criminal Procedure, is
 1-34 amended by amending Subsections (a) and (b) and adding Subsection
 1-35 (b-2) to read as follows:

1-36 (a) Except as provided by Subsection (b), ~~(b-1)~~, or
 1-37 (b-2), a magistrate may, in the magistrate's discretion, release
 1-38 the defendant on personal bond without sureties or other security.

1-39 (b) Only the court before whom the case is pending may
 1-40 release on personal bond a defendant who:

1-41 (1) is charged with an offense under the following
 1-42 sections of the Penal Code:

- 1-43 (A) Section 19.03 (Capital Murder);
- 1-44 (B) Section 20.04 (Aggravated Kidnapping);
- 1-45 (C) Section 22.021 (Aggravated Sexual Assault);
- 1-46 (D) ~~Section 22.03 (Deadly Assault on Law~~
 1-47 ~~Enforcement or Corrections Officer, Member or Employee of Board of~~
 1-48 ~~Pardons and Paroles, or Court Participant);~~

1-49 ~~(E)~~ Section 22.04 (Injury to a Child, Elderly
 1-50 Individual, or Disabled Individual);

1-51 (E) ~~(F)~~ Section 29.03 (Aggravated Robbery);

1-52 (F) ~~(G)~~ Section 30.02 (Burglary);

1-53 (G) ~~(H)~~ Section 71.02 (Engaging in Organized
 1-54 Criminal Activity);

1-55 (H) ~~(I)~~ Section 21.02 (Continuous Sexual Abuse
 1-56 of Young Child or Children); or

1-57 (I) ~~(J)~~ Section 20A.03 (Continuous Trafficking
 1-58 of Persons);

1-59 (2) is charged with a felony under Chapter 481, Health
 1-60 and Safety Code, or Section 485.033, Health and Safety Code,
 1-61 punishable by imprisonment for a minimum term or by a maximum fine

2-1 that is more than a minimum term or maximum fine for a first degree
2-2 felony; or

2-3 (3) does not submit to testing for the presence of a
2-4 controlled substance in the defendant's body as requested by the
2-5 court or magistrate under Subsection (c) of this article or submits
2-6 to testing and the test shows evidence of the presence of a
2-7 controlled substance in the defendant's body.

2-8 (b-2) A magistrate may not release on personal bond a
2-9 defendant who:

2-10 (1) is charged with committing an offense while
2-11 released on bail or community supervision for an offense involving
2-12 violence, as defined by Article 17.15(b); or

2-13 (2) has previously been convicted of an offense
2-14 involving violence, as defined by Article 17.15(b).

2-15 SECTION 3. Chapter 17, Code of Criminal Procedure, is
2-16 amended by adding Articles 17.0501, 17.0502, and 17.071 to read as
2-17 follows:

2-18 Art. 17.0501. TRAINING ON CRIMINAL HISTORY RECORD
2-19 INFORMATION. The Department of Public Safety shall provide
2-20 adequate training to each magistrate, judge, sheriff, peace
2-21 officer, or jailer required to obtain criminal history record
2-22 information under this chapter, as necessary to enable the person
2-23 to fulfill those requirements.

2-24 Art. 17.0502. COMPLETION OF BAIL FORM. (a) Each
2-25 magistrate, judge, sheriff, peace officer, or jailer shall, at the
2-26 time the person sets bail for a defendant under this chapter,
2-27 complete the form promulgated by the Office of Court Administration
2-28 of the Texas Judicial System under Section 72.036, Government Code.

2-29 (b) A person completing a form under this article shall
2-30 deliver the completed form to the Office of Court Administration of
2-31 the Texas Judicial System as soon as is practicable.

2-32 Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) In this
2-33 article, "charitable bail organization" means a person who solicits
2-34 donations from the public for the purpose of depositing money with a
2-35 court in the amount of a defendant's bail bond. The term does not
2-36 include:

2-37 (1) a person soliciting donations with respect to a
2-38 defendant who is a member of the person's family, as determined
2-39 under Section 71.003, Family Code; or

2-40 (2) a nonprofit corporation organized for the purpose
2-41 of religious worship.

2-42 (b) This article does not apply to a charitable bail
2-43 organization that pays a bail bond for not more than three
2-44 defendants in any 180-day period.

2-45 (c) A charitable bail organization shall file in the office
2-46 of the county clerk of each county where the organization intends to
2-47 pay bail bonds an affidavit designating the individuals authorized
2-48 to pay bonds on behalf of the organization.

2-49 (d) A charitable bail organization may only pay bail bonds
2-50 for indigent defendants who:

2-51 (1) are not charged with an offense involving
2-52 violence, as defined by Article 17.15(b); and

2-53 (2) have not previously been convicted of an offense
2-54 involving violence, as defined by Article 17.15(b).

2-55 (e) Not later than the 10th day of each month, a charitable
2-56 bail organization shall submit, to the sheriff of each county in
2-57 which the organization files an affidavit under Subsection (c), a
2-58 report that includes the following information for each defendant
2-59 for whom the organization paid a bail bond in the preceding calendar
2-60 month:

2-61 (1) the name of the defendant;

2-62 (2) the cause number of the case;

2-63 (3) the county in which the applicable charge is
2-64 pending, if different from the county in which the bond was paid;
2-65 and

2-66 (4) any dates on which the defendant has failed to
2-67 appear in court as required for the charge for which the bond was
2-68 paid.

2-69 (f) A charitable bail organization may not pay a bail bond

3-1 for a defendant at any time the organization is considered to be out
3-2 of compliance with the reporting requirements of this article.

3-3 (g) A sheriff may suspend a charitable bail organization
3-4 from paying bail bonds in the sheriff's county for one year if the
3-5 sheriff determines the organization has paid bonds in violation of
3-6 this article.

3-7 (h) Chapter 22 applies to a bail bond paid by a charitable
3-8 bail organization.

3-9 (i) A charitable bail organization may not accept a premium
3-10 or compensation for paying a bail bond for a defendant.

3-11 SECTION 4. Article 17.15, Code of Criminal Procedure, is
3-12 amended to read as follows:

3-13 Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. (a) The
3-14 amount of bail to be required in any case is to be regulated by the
3-15 court, judge, magistrate or officer taking the bail; they are to be
3-16 governed in the exercise of this discretion by the Constitution and
3-17 by the following rules:

3-18 1. The bail shall be sufficiently high to give reasonable
3-19 assurance that the undertaking will be complied with.

3-20 2. The power to require bail is not to be so used as to make
3-21 it an instrument of oppression.

3-22 3. The nature of the offense and the circumstances under
3-23 which it was committed are to be considered, including whether the
3-24 offense is an offense involving violence and whether the violence
3-25 was directed against a peace officer.

3-26 4. The ability to make bail is to be regarded, and proof may
3-27 be taken upon this point.

3-28 5. The future safety of a victim of the alleged offense and
3-29 the community shall be considered.

3-30 6. The criminal history of the defendant, including any
3-31 other pending criminal charges and any instances in which the
3-32 defendant failed to appear in court following release on bail, is to
3-33 be considered.

3-34 7. The citizenship status of the defendant is to be
3-35 considered.

3-36 (b) In this article, "offense involving violence" means an
3-37 offense under the following sections of the Penal Code:

3-38 (1) Section 19.02 (murder);

3-39 (2) Section 19.03 (capital murder);

3-40 (3) Section 20.03 (kidnapping);

3-41 (4) Section 20.04 (aggravated kidnapping);

3-42 (5) Section 20A.03 (continuous trafficking of
3-43 persons);

3-44 (6) Section 21.02 (continuous sexual abuse of young
3-45 child or children);

3-46 (7) Section 21.11 (indecent with a child);

3-47 (8) Section 22.01(a)(1) (assault), if the offense:

3-48 (A) involved family violence as defined by
3-49 Section 71.004, Family Code; or

3-50 (B) is punishable as a felony of the second
3-51 degree under Subsection (b-2) of that section (assault of a peace
3-52 officer or judge);

3-53 (9) Section 22.011 (sexual assault);

3-54 (10) Section 22.02 (aggravated assault);

3-55 (11) Section 22.021 (aggravated sexual assault);

3-56 (12) Section 22.04 (injury to a child, elderly
3-57 individual, or disabled individual);

3-58 (13) Section 25.072 (repeated violation of certain
3-59 court orders or conditions of bond in family violence, child abuse
3-60 or neglect, sexual assault or abuse, indecent assault, stalking, or
3-61 trafficking case);

3-62 (14) Section 25.11 (continuous violence against the
3-63 family);

3-64 (15) Section 29.03 (aggravated robbery); or

3-65 (16) Section 38.14 (taking or attempting to take
3-66 weapon from peace officer, federal special investigator, employee
3-67 or official of correctional facility, parole officer, community
3-68 supervision and corrections department officer, or commissioned
3-69 security officer).

4-1 SECTION 5. Chapter 17, Code of Criminal Procedure, is
4-2 amended by adding Articles 17.1501 and 17.1502 to read as follows:

4-3 Art. 17.1501. CONTINUING EDUCATION. (a) A judge or
4-4 magistrate with the authority to set bail for defendants shall,
4-5 within one year after the date the judge or magistrate first assumes
4-6 office, successfully complete a four-hour course with respect to
4-7 the judge's or magistrate's duties under Article 15.17 and setting
4-8 bail in criminal cases.

4-9 (b) Each following year, a judge or magistrate described by
4-10 Subsection (a) shall successfully complete a two-hour course with
4-11 respect to the judge's or magistrate's duties under Article 15.17
4-12 and setting bail in criminal cases.

4-13 (c) The courses may be completed through a course in bail
4-14 bond law that is:

4-15 (1) approved by the State Bar of Texas; and

4-16 (2) offered:

4-17 (A) by a public or accredited private institution
4-18 of higher education in this state; or

4-19 (B) through a program approved by a justice court
4-20 education committee.

4-21 Art. 17.1502. BAIL SCHEDULE; HEARING. (a) The judges of
4-22 the courts trying criminal cases in a county may promulgate a
4-23 standing order setting out a schedule of suggested bail amounts for
4-24 any offense over which the courts have jurisdiction under Chapter
4-25 4.

4-26 (b) A standing order promulgated in accordance with this
4-27 article must require that the factors under Article 17.15 be
4-28 considered before a defendant's bail is set.

4-29 (c) A defendant who is unable to give bail in the amount
4-30 required by the schedule must be given an opportunity to file with
4-31 the applicable magistrate a sworn affidavit in substantially the
4-32 following form:

4-33 "On this ___ day of _____, 20____, I have been advised by the
4-34 (name of the court) Court of the importance of providing true and
4-35 complete information about my financial situation in connection
4-36 with the charge pending against me. I am without means to pay
4-37 _____ and I hereby request the court to set an appropriate bail.
4-38 (signature of defendant)."

4-39 (d) The Office of Court Administration of the Texas Judicial
4-40 System shall promulgate a form to be completed by a defendant filing
4-41 an affidavit under Subsection (c) to allow a magistrate to assess
4-42 information relevant to the defendant's financial situation. The
4-43 form must collect, at a minimum, the following information:

4-44 (1) any income received by the defendant and the
4-45 defendant's spouse in the preceding two years;

4-46 (2) the defendant's employment history and the
4-47 employment history of the defendant's spouse, including gross
4-48 monthly pay, for the preceding two years;

4-49 (3) any cash holdings available to the defendant or
4-50 the defendant's spouse and the financial institution in which the
4-51 cash is held;

4-52 (4) the defendant's major non-cash assets, including
4-53 real estate and motor vehicles;

4-54 (5) money owed to the defendant or to the defendant's
4-55 spouse;

4-56 (6) any dependents of the defendant or of the
4-57 defendant's spouse, and the dependents' ages;

4-58 (7) an itemized estimate of the defendant's monthly
4-59 expenses;

4-60 (8) an estimate of the defendant's tax and legal
4-61 expenses;

4-62 (9) any anticipated major changes in the defendant's
4-63 income or expenses; and

4-64 (10) any additional relevant information the
4-65 defendant is able to provide to explain the defendant's inability
4-66 to pay bail according to the schedule.

4-67 (e) A defendant who files an affidavit under Subsection (c)
4-68 is entitled to a hearing before the magistrate on the bail amount.
4-69 The hearing must be held not later than 48 hours after the affidavit

5-1 is filed. At the hearing, the magistrate shall require the
 5-2 defendant to sign the form described by Subsection (d) in the
 5-3 presence of the magistrate and under penalty of perjury. After the
 5-4 form is signed, the magistrate shall consider the facts stated in
 5-5 the form and the rules established by Article 17.15 and shall set
 5-6 the defendant's bail. The magistrate shall issue oral or written
 5-7 findings of fact supporting the bail decision.

5-8 SECTION 6. Article 17.20, Code of Criminal Procedure, is
 5-9 amended to read as follows:

5-10 Art. 17.20. BAIL IN MISDEMEANOR. (a) In cases of
 5-11 misdemeanor, the sheriff or other peace officer, or a jailer
 5-12 licensed under Chapter 1701, Occupations Code, may, whether during
 5-13 the term of the court or in vacation, where the officer has a
 5-14 defendant in custody, take of the defendant a bail bond.

5-15 (b) Before taking a bail bond under this article, the
 5-16 sheriff, peace officer, or jailer shall obtain the defendant's
 5-17 criminal history record information. If the defendant is charged
 5-18 with an offense involving violence or has previously been convicted
 5-19 of an offense involving violence, the sheriff, officer, or jailer
 5-20 may not set the amount of the defendant's bail but may take of the
 5-21 defendant a bail bond in the amount fixed by the court. For
 5-22 purposes of this subsection, "offense involving violence" has the
 5-23 meaning assigned by Article 17.15(b).

5-24 SECTION 7. Article 17.22, Code of Criminal Procedure, is
 5-25 amended to read as follows:

5-26 Art. 17.22. MAY TAKE BAIL IN FELONY. (a) In a felony case,
 5-27 if the court before which the case [~~same~~] is pending is not in
 5-28 session in the county where the defendant is in custody, the sheriff
 5-29 or other peace officer, or a jailer licensed under Chapter 1701,
 5-30 Occupations Code, who has the defendant in custody may take the
 5-31 defendant's bail bond in the [~~such~~] amount [~~as may have been~~] fixed
 5-32 by the court or magistrate, or if no amount has been fixed, then in
 5-33 any [~~such~~] amount as the [~~such~~] officer considers [~~may consider~~]
 5-34 reasonable.

5-35 (b) Before taking a bail bond under this article, the
 5-36 sheriff, peace officer, or jailer shall obtain the defendant's
 5-37 criminal history record information. If the defendant is charged
 5-38 with an offense involving violence or has previously been convicted
 5-39 of an offense involving violence, the sheriff, officer, or jailer
 5-40 may not set the amount of the defendant's bail but may take of the
 5-41 defendant a bail bond in the amount fixed by the court. For
 5-42 purposes of this subsection, "offense involving violence" has the
 5-43 meaning assigned by Article 17.15(b).

5-44 SECTION 8. Section 27.005, Government Code, is amended to
 5-45 read as follows:

5-46 Sec. 27.005. EDUCATIONAL REQUIREMENTS. (a) For purposes
 5-47 of removal under Chapter 87, Local Government Code, "incompetency"
 5-48 in the case of a justice of the peace includes the failure of the
 5-49 justice to successfully complete:

5-50 (1) within one year after the date the justice is first
 5-51 elected:

5-52 (A) [~~7~~] an 80-hour course in the performance of
 5-53 the justice's duties; and

5-54 (B) the course described by Article 17.1501(a),
 5-55 Code of Criminal Procedure; and

5-56 (2) each following year:

5-57 (A) [~~7~~] a 20-hour course in the performance of
 5-58 the justice's duties, including not less than 10 hours of
 5-59 instruction regarding substantive, procedural, and evidentiary law
 5-60 in civil matters; and

5-61 (B) the course described by Article 17.1501(b),
 5-62 Code of Criminal Procedure.

5-63 (b) The courses described by Subsections (a)(1)(A) and
 5-64 (a)(2)(A) may be completed in an accredited state-supported school
 5-65 of higher education.

5-66 SECTION 9. Subchapter C, Chapter 71, Government Code, is
 5-67 amended by adding Section 71.0351 to read as follows:

5-68 Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a)
 5-69 As a component of the official monthly report submitted to the

6-1 Office of Court Administration of the Texas Judicial System under
6-2 Section 71.035, the clerk of each court setting bail in criminal
6-3 cases shall report:

6-4 (1) the number of defendants for whom bail was set,
6-5 including:

6-6 (A) the number for each category of offense; and
6-7 (B) the number of personal bonds;

6-8 (2) the number of defendants who posted bail;

6-9 (3) the number of defendants released on bail who
6-10 subsequently failed to appear or violated a condition of release;
6-11 and

6-12 (4) the number of defendants who committed an offense
6-13 while released on bail or community supervision.

6-14 (b) The Office of Court Administration of the Texas Judicial
6-15 System shall post the information in a publicly accessible place on
6-16 the agency's Internet website without disclosing any personal
6-17 information of any defendant, judge, or magistrate.

6-18 SECTION 10. Subchapter C, Chapter 72, Government Code, is
6-19 amended by adding Section 72.036 to read as follows:

6-20 Sec. 72.036. BAIL FORM. (a) The office shall promulgate a
6-21 form to be completed each time a magistrate, judge, sheriff, peace
6-22 officer, or jailer sets a defendant's bail under Chapter 17, Code of
6-23 Criminal Procedure.

6-24 (b) The form must:

6-25 (1) state the requirements for setting bail under
6-26 Article 17.15, Code of Criminal Procedure;

6-27 (2) require the person setting bail to certify that
6-28 the person considered all of the information required under that
6-29 article; and

6-30 (3) be signed by the person setting the bail.

6-31 (c) The office shall publish each form submitted under
6-32 Article 17.0502, Code of Criminal Procedure, in a database that is
6-33 publicly accessible on the office's Internet website.

6-34 SECTION 11. Article 66.102(c), Code of Criminal Procedure,
6-35 is amended to read as follows:

6-36 (c) Information in the computerized criminal history system
6-37 relating to an arrest must include:

6-38 (1) the offender's name;

6-39 (2) the offender's state identification number;

6-40 (3) the arresting law enforcement agency;

6-41 (4) the arrest charge, by offense code and incident
6-42 number;

6-43 (5) whether the arrest charge is a misdemeanor or
6-44 felony;

6-45 (6) the date of the arrest;

6-46 (7) for an offender released on bail, whether a
6-47 warrant was issued for any subsequent failure of the offender to
6-48 appear in court;

6-49 (8) the exact disposition of the case by a law
6-50 enforcement agency following the arrest; and

6-51 (9) ~~(8)~~ the date of disposition of the case by the
6-52 law enforcement agency.

6-53 SECTION 12. A judge or magistrate who is serving on the
6-54 effective date of this Act must complete the judge's or
6-55 magistrate's:

6-56 (1) initial training under Article 17.1501(a), Code of
6-57 Criminal Procedure, as added by this Act, not later than September
6-58 1, 2022; and

6-59 (2) first required course under Article 17.1501(b),
6-60 Code of Criminal Procedure, as added by this Act, not later than
6-61 September 1, 2023.

6-62 SECTION 13. The changes in law made by this Act apply only
6-63 to a person who is arrested on or after the effective date of this
6-64 Act. A person arrested before the effective date of this Act is
6-65 governed by the law in effect on the date the person was arrested,
6-66 and the former law is continued in effect for that purpose.

6-67 SECTION 14. This Act takes effect September 1, 2021.