

1-1 By: Huffman, Hinojosa S.B. No. 1318
1-2 (In the Senate - Filed February 28, 2023; March 1, 2023,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 27, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 27, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1318 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the release of defendants on bail, the duties of a
1-20 magistrate in certain criminal proceedings, and the notice provided
1-21 by peace officers to adult victims of family violence.

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

1-23 SECTION 1. Article 5.04(c), Code of Criminal Procedure, is
1-24 amended to read as follows:

1-25 (c) A written notice required by Subsection (b) of this
1-26 article is sufficient if it is in substantially the following form
1-27 with the required information in English and in Spanish inserted in
1-28 the notice:

1-29 "It is a crime for any person to cause you any physical injury
1-30 or harm EVEN IF THAT PERSON IS A MEMBER OR FORMER MEMBER OF YOUR
1-31 FAMILY OR HOUSEHOLD.

1-32 "NOTICE TO ADULT VICTIMS OF FAMILY VIOLENCE

1-33 "Please tell the investigating peace officer:

1-34 "IF you, your child, or any other household resident has been
1-35 injured; or

1-36 "IF you feel you are going to be in danger when the officer
1-37 leaves or later.

1-38 "You have the right to:

1-39 "ASK the local prosecutor to file a criminal complaint
1-40 against the person committing family violence;

1-41 "PROVIDE information to the local prosecutor that will be
1-42 helpful to a magistrate setting bail if the person committing
1-43 family violence is arrested; and

1-44 "APPLY to a court for an order to protect you (you should
1-45 consult a legal aid office, a prosecuting attorney, or a private
1-46 attorney). If a family or household member assaults you and is
1-47 arrested, you may request that a magistrate's order for emergency
1-48 protection be issued. Please inform the investigating officer if
1-49 you want an order for emergency protection. You need not be
1-50 present when the order is issued. You cannot be charged a fee by a
1-51 court in connection with filing, serving, or entering a protective
1-52 order. For example, the court can enter an order that:

1-53 "(1) the abuser not commit further acts of violence;

1-54 "(2) the abuser not threaten, harass, or contact you at home;

1-55 "(3) directs the abuser to leave your household; and

1-56 "(4) establishes temporary custody of the children and
1-57 directs the abuser not to interfere with the children or any
1-58 property.

1-59 "A VIOLATION OF CERTAIN PROVISIONS OF COURT-ORDERED
1-60 PROTECTION (such as (1) and (2) above) MAY BE A FELONY.

"CALL THE FOLLOWING VIOLENCE SHELTERS OR SOCIAL ORGANIZATIONS IF YOU NEED PROTECTION:

"_____."

SECTION 2. Article 15.17, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) Not later than 24 hours after the time a magistrate determines that no probable cause exists to believe that a person committed the offense for which the person was arrested, the magistrate shall make oral or written findings of fact and conclusions of law on the record to support that finding.

SECTION 3. Article 17.021, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) The office shall, without cost to the county, allow a county to integrate with the public safety report system the jail records management system and case management system used by the county.

SECTION 4. Article 17.022, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) In the manner described by this article, a magistrate may order, prepare, or consider a public safety report in setting bail for a defendant who is not in custody at the time the report is ordered, prepared, or considered.

SECTION 5. The heading to Article 17.027, Code of Criminal Procedure, is amended to read as follows:

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE [COMMITTED WHILE ON BAIL].

SECTION 6. Article 17.027, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (c), and (d) to read as follows:

(a) Notwithstanding any other law:

(1) if a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, the defendant may be released on bail only by:

(A) the court before whom the case for the previous offense is pending; or

(B) another court designated in writing by the court described by Paragraph (A); and

(2) if a defendant is charged with committing an offense punishable as a felony while released on bail for another pending offense punishable as a felony and the subsequent offense was committed in a different county than the previous offense, electronic notice of the charge must be [promptly] given to the individual designated to receive electronic notices for the county in which the previous offense was committed, not later than the next business day after the date the defendant is charged, for purposes of the court specified by Subdivision (1) [for purposes of reevaluating the bail decision], determining whether any bail conditions were violated[7] or taking any other applicable action such as an action described by Subsection (a-1).

(a-1) If a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony, the court before which the case for the previous offense is pending shall consider whether to revoke or modify the terms of the previous bond or to otherwise reevaluate the previous bail decision.

(a-2) A criminal law hearing officer appointed under Chapter 54, Government Code, may not release on bail a defendant who:

(1) is charged with committing an offense punishable as a felony if the defendant:

(A) was on parole at the time of the offense;

(B) has previously been finally convicted of two or more offenses punishable as a felony and for which the defendant was imprisoned in the Texas Department of Criminal Justice; or

(C) is subject to an immigration detainer issued by United States Immigration and Customs Enforcement; or

3-1 (2) is charged with committing an offense under the
3-2 following provisions of the Penal Code:

- 3-3 (A) Section 19.02 (murder);
- 3-4 (B) Section 19.03 (capital murder);
- 3-5 (C) Section 20.04 (aggravated kidnapping);
- 3-6 (D) Section 22.02 (aggravated assault); or
- 3-7 (E) Section 22.021 (aggravated sexual assault).

3-8 (c) The local administrative district judge for each county
3-9 shall designate an individual to receive electronic notices under
3-10 Subsection (a)(2). The county shall ensure that the name and
3-11 contact information of the individual designated to receive notices
3-12 under this subsection is:

3-13 (1) provided on all criminal history and warrant
3-14 documents issued by the county; and

3-15 (2) included in the public safety report system
3-16 developed under Article 17.021.

3-17 (d) An individual designated under Subsection (c) who
3-18 receives an electronic notice under Subsection (a) shall promptly
3-19 provide the notice to the court specified by Subsection (a)(1) and
3-20 to the attorney representing the state and the defendant's attorney
3-21 in the pending case for the offense for which the defendant was
3-22 initially released on bail. A notice provided under this subsection
3-23 does not constitute an ex parte communication.

3-24 SECTION 7. Article 17.03(b-2), Code of Criminal Procedure,
3-25 is amended to read as follows:

3-26 (b-2) Except as provided by Articles 15.21, 17.033, and
3-27 17.151, a defendant may not be released on personal bond if the
3-28 defendant:

3-29 (1) is charged with:

- 3-30 (A) an offense involving violence; or
- 3-31 (B) an offense under:

3-32 (i) Section 481.1123, Health and Safety
3-33 Code (manufacture or delivery of substance in Penalty Group 1-B);

3-34 (ii) Section 22.07, Penal Code (terroristic
3-35 threat);

3-36 (iii) Section 25.07, Penal Code (violation
3-37 of certain court orders or conditions of bond in a family violence,
3-38 child abuse or neglect, sexual assault or abuse, indecent assault,
3-39 stalking, or trafficking case); or

3-40 (iv) Section 46.04(a), Penal Code (unlawful
3-41 possession of firearm); or

3-42 (2) while released on bail or community supervision
3-43 for an offense involving violence, is charged with committing:

- 3-44 (A) any offense punishable as a felony; or
- 3-45 (B) an offense under the following provisions of

3-46 the Penal Code:

- 3-47 (i) Section 22.01(a)(1) (assault);
- 3-48 (ii) Section 22.05 (deadly conduct); or
- 3-49 (iii) ~~Section 22.07 (terroristic threat);~~

3-50 ~~or~~
3-51 [~~iv~~] Section 42.01(a)(7) or (8)

3-52 (disorderly conduct involving firearm).

3-53 SECTION 8. Article 17.21, Code of Criminal Procedure, is
3-54 amended to read as follows:

3-55 Art. 17.21. BAIL IN FELONY. (a) In cases of felony, when
3-56 the accused is in custody of the sheriff or other officer, and the
3-57 court before which the prosecution is pending is in session in the
3-58 county where the accused is in custody, the court shall fix the
3-59 amount of bail, if it is aailable case and determine if the
3-60 accused is eligible for a personal bond; and the sheriff or other
3-61 peace officer, unless it be the police of a city, or a jailer
3-62 licensed under Chapter 1701, Occupations Code, is authorized to
3-63 take a bail bond of the accused in the amount as fixed by the court,
3-64 to be approved by such officer taking the same, and will thereupon
3-65 discharge the accused from custody. The defendant and the
3-66 defendant's sureties are not required to appear in court.

3-67 (b) Notwithstanding Subsection (a), a magistrate may not
3-68 release on bail a defendant charged with an offense punishable as a
3-69 felony unless:

4-1 (1) the defendant has appeared before the magistrate;
4-2 and
4-3 (2) the magistrate has considered the public safety
4-4 report prepared under Article 17.022 for the defendant.

4-5 SECTION 9. Articles 44.01(a) and (g), Code of Criminal
4-6 Procedure, are amended to read as follows:

4-7 (a) The state is entitled to appeal an order of a court in a
4-8 criminal case if the order:

4-9 (1) dismisses an indictment, information, or
4-10 complaint or any portion of an indictment, information, or
4-11 complaint;

4-12 (2) arrests or modifies a judgment;

4-13 (3) grants a new trial;

4-14 (4) sustains a claim of former jeopardy;

4-15 (5) grants a motion to suppress evidence, a
4-16 confession, or an admission, if jeopardy has not attached in the
4-17 case and if the prosecuting attorney certifies to the trial court
4-18 that the appeal is not taken for the purpose of delay and that the
4-19 evidence, confession, or admission is of substantial importance in
4-20 the case; ~~or~~

4-21 (6) is issued under Chapter 64; or

4-22 (7) grants bail, in an amount considered insufficient
4-23 by the prosecuting attorney, to a defendant who:

4-24 (A) is charged with an offense punishable as a
4-25 felony; and

4-26 (B) has previously been granted bail for a
4-27 pending offense punishable as a felony.

4-28 (g) If the state appeals pursuant to this article and the
4-29 defendant is on bail, the defendant ~~he~~ shall be permitted to
4-30 remain at large on the existing bail. If the defendant is in
4-31 custody, the defendant ~~he~~ is entitled to reasonable bail, as
4-32 provided by law, unless the appeal is from an order which would:

4-33 (1) terminate the prosecution, in which event the
4-34 defendant is entitled to release on personal bond; or

4-35 (2) grant bail in an amount considered insufficient by
4-36 the prosecuting attorney, in which event the defendant shall be
4-37 held in custody during the pendency of the appeal.

4-38 SECTION 10. Section 72.038, Government Code, is amended by
4-39 adding Subsection (b-1) to read as follows:

4-40 (b-1) A person who releases a defendant on bail under the
4-41 authority of a standing order related to bail shall complete the
4-42 form required under this section.

4-43 SECTION 11. The change in law made by this Act applies only
4-44 to an offense committed on or after the effective date of this Act.
4-45 An offense committed before the effective date of this Act is
4-46 governed by the law in effect on the date the offense was committed,
4-47 and the former law is continued in effect for that purpose. For
4-48 purposes of this section, an offense was committed before the
4-49 effective date of this Act if any element of the offense occurred
4-50 before that date.

4-51 SECTION 12. This Act takes effect September 1, 2023.

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