

1-1 By: Huffman, Hinojosa S.J.R. No. 44  
1-2 (In the Senate - Filed February 13, 2023; February 22, 2023,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 9, 2023, reported favorably by the following vote: Yeas 6,  
1-5 Nays 0, 1 present not voting; March 9, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Flores	X		
1-10	Bettencourt	X		
1-11	Hinojosa	X		
1-12	Huffman	X		
1-13	King	X		
1-14	Miles			X

1-15 SENATE JOINT RESOLUTION

1-16 proposing a constitutional amendment authorizing the denial of bail  
1-17 under some circumstances to a person accused of a violent or sexual  
1-18 offense or of continuous trafficking of persons and requiring a  
1-19 judge or magistrate to impose the least restrictive conditions of  
1-20 bail that may be necessary to ensure the person's appearance in  
1-21 court as required and the safety of the community, law enforcement,  
1-22 and the victim of the alleged offense.

1-23 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 11, Article I, Texas Constitution, is  
1-25 amended to read as follows:

1-26 Sec. 11. (a) All prisoners shall be bailable by sufficient  
1-27 sureties, unless for capital offenses ~~[offences]~~, when the proof is  
1-28 evident; but this provision shall not be so construed as to prevent  
1-29 bail after indictment found upon examination of the evidence, in  
1-30 such manner as may be prescribed by law.

1-31 (b) In setting bail, a judge or magistrate shall impose the  
1-32 least restrictive conditions, if any, that are necessary to  
1-33 reasonably ensure the accused person's appearance in court as  
1-34 required and the safety of the community, law enforcement, and the  
1-35 victim of the alleged offense.

1-36 SECTION 2. Article I, Texas Constitution, is amended by  
1-37 adding Section 11d to read as follows:

1-38 Sec. 11d. (a) A person accused of committing a sexual  
1-39 offense punishable as a felony of the first degree, of committing a  
1-40 violent offense, or of committing continuous trafficking of persons  
1-41 may be denied bail pending trial if a judge or magistrate determines  
1-42 by clear and convincing evidence after a hearing that requiring  
1-43 bail and conditions of release is insufficient to reasonably  
1-44 ensure:

1-45 (1) the person's appearance in court as required; or  
1-46 (2) the safety of the community, law enforcement, or  
1-47 the victim of the alleged offense.

1-48 (b) A judge or magistrate who denies a person bail in  
1-49 accordance with this section shall prepare a written order that  
1-50 includes findings of fact and a statement explaining the judge's or  
1-51 magistrate's reason for the denial.

1-52 (c) This section may not be construed to:

1-53 (1) limit any right a person has under other law to  
1-54 contest a denial of bail or to contest the amount of bail set by a  
1-55 judge or magistrate; or

1-56 (2) require any testimonial evidence before a judge or  
1-57 magistrate makes a bail decision with respect to a person to whom  
1-58 this section applies.

1-59 (d) For purposes of determining whether clear and  
1-60 convincing evidence exists to deny a person bail as described by  
1-61 this section, a judge or magistrate shall consider the factors

2-1 required to be considered by a judge or magistrate in setting bail  
2-2 under general law, including statutory law governing criminal  
2-3 procedure.

2-4 (e) In this section, "violent offense" and "sexual offense"  
2-5 have the meanings assigned by Section 11a of this article.

2-6 SECTION 3. This proposed constitutional amendment shall be  
2-7 submitted to the voters at an election to be held November 7, 2023.  
2-8 The ballot shall be printed to permit voting for or against the  
2-9 proposition: "The constitutional amendment authorizing the denial  
2-10 of bail under some circumstances to a person accused of a violent or  
2-11 sexual offense or of continuous trafficking of persons and  
2-12 requiring a judge or magistrate to impose the least restrictive  
2-13 conditions of bail that may be necessary to ensure the person's  
2-14 appearance in court as required and the safety of the community, law  
2-15 enforcement, and the victim of the alleged offense."

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