Bail 101

An Overview of Bail in Texas

2021-2022

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TEXAS CODE OF CRIMINAL PROCEDURE

Chapter 17

Bail

(as amended by HB 1005 passed during the 2021 Regular Session of the Texas Legislature and by SB 6 passed in the 2nd Called Special Session - the changes are effective 1-1-22 unless otherwise noted)

ART. 17.01 – BAIL

"Bail" is the security given by the accused that he will appear and answer before the proper court the accusation brought against him, and includes a bail bond or a personal bond.

Notes:

This definition has remained unchanged through many legislative revisions.

"Bail" may not be used for fines, fees, or attorney's fees under normal circumstances. Trammel v. State, 529 S.W.2d 528 (Tex. Crim. App. 1975)

Primary object or purpose of appearance bond is to secure presence of defendant at court upon trial of accusation against him. Fly v. State, 550 S.W.2d 684 (Tex. Crim. App. 1977)

ART. 17.02 – DEFINITION OF A "BAIL BOND"

A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court, or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article shall be receipted for by the officer receiving the funds and, on order of the court, be refunded in the amount shown on the face of the receipt less the administrative fee authorized by Section 117.055, Local Government Code, if applicable, after the defendant complies with the conditions of the defendant's bond, to:

(1) any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or

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

Effective date: The change in this article is effective on the 91st day after the adjournment of the 2nd special session, 12-2-21. See, Sec. 25(c) of S.B.6.

Notes:

The court does not have discretion to set a differential bail bond amount depending upon whether cash bond or surety bond is used. A court, judge, magistrate, or officer taking bail bond has broad discretion in setting amount of

bail, provided that discretion is reasonably exercised; however, such authority does not vest court with discretion to require cash bond or surety bond to exclusion of other. Professional Bondsmen of Texas v. Carey, 762 S.W.2d 691 (Tex. App. – Amarillo, 1988, no writ). See also, AG Op. JM-363 (1985)

A court has no authority to permit the defendant to post less than the full amount of the bail that has been set. In re Tharp, 351 S.W.3d 598 (Tex. App. - Austin, 2011) See also, AG Op. GA-0048 (2003)

A court may not set a condition of bond as cash only. It is a right or privilege of the defendant to post cash in lieu of having sureties on the bond. Ex parte Deaton, 582 S.W.2d 151 (Tex. Cr. App. 1979)

ART. 17.021 – PUBLIC SAFETY REPORT SYSTEM

(a) The Office of Court Administration of the Texas Judicial System shall develop and maintain a public safety report system that is available for use for purposes of Article 17.15.

(b) The public safety report system must:

(1) state the requirements for setting bail under Article 17.15 and list each factor provided by Article 17.15(a);

(2) provide the defendant's name and date of birth or, if impracticable, other identifying information, the cause number of the case, if available, and the offense for which the defendant was arrested;

(3) provide information on the eligibility of the defendant for a personal bond;

(4) provide information regarding the applicability of any required or discretionary bond conditions;

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

(A) previous misdemeanor or felony convictions;

(B) pending charges;

(C) previous sentences imposing a term of confinement;

(D) previous convictions or pending charges for:

(i) offenses that are offenses involving violence as defined by Article 17.03; or

(ii) offenses involving violence directed against a peace officer; and

(E) previous failures of the defendant to appear in court following release on bail; and

(6) be designed to collect and maintain the information provided on a bail form submitted under Section 72.038, Government Code.

(c) The office shall provide access to the public safety report system to the appropriate officials in each county and each municipality at no cost. This subsection may not be construed to require the office to provide an official or magistrate with any equipment or support related to accessing or using the public safety report system.

(d) The public safety report system may not:

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

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

(3) include any information other than the information listed in Subsection (b).

(e) The office shall use the information maintained under Subsection (b)(6) to collect data from the preceding state fiscal year regarding the number of defendants for whom bail was set after arrest, including:

(1) the number for each category of offense;

(2) the number of personal bonds; and

(3) the number of monetary bonds.

(f) Not later than December 1 of each year, the office shall submit a report containing the data described by Subsection (e) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

(g) The Department of Public Safety shall assist the office in implementing the public safety report system established under this article and shall provide criminal history record information to the office in the electronic form necessary for the office to implement this article.

(h) Any contract for goods or services between the office and a vendor that may be necessary or appropriate to develop the public safety report system is exempt from the requirements of Subtitle D, Title 10, Government Code. This subsection expires September 1, 2022.

Effective date: The change in this article is effective on the 91st day after the adjournment of the 2nd special session, 12-2-21. See, Sec. 25(c) of S.B.6. The Office of Court Administration is required to produce the public safety report system required by this article not later than 4-1-22, but if it is able to do so earlier, OCA must notify the counties earlier.

ART. 17.022 - PUBLIC SAFETY REPORT

(a) A magistrate considering the release on bail of a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense shall order that:

(1) the personal bond office established under Article 17.42 for the county in which the defendant is being detained, if a personal bond office has been established for that county, or other suitably trained person including judicial personnel or sheriff's department personnel, use the public safety report system developed under Article 17.021 to prepare a public safety report with respect to the defendant; and

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

(b) A magistrate may not, without the consent of the sheriff, order a sheriff or sheriff's department personnel to prepare a public safety report under this article.

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

(d) The magistrate shall:

(1) consider the public safety report before setting bail; and

(2) promptly but not later than 72 hours after the time bail is set, submit the bail form described by Section 72.038, Government Code, in accordance with that section.

(e) In the manner described by this article, a magistrate may, but is not required to, order, prepare, or consider a public safety report in setting bail for a defendant charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c). If ordered, the report shall be prepared for the time and place for an appearance as indicated in the citation.

(f) A magistrate may set bail for a defendant charged only with an offense punishable as a misdemeanor without ordering, preparing, or considering a public safety report if the public safety report system is unavailable for longer than 12 hours due to a technical failure at the Office of Court Administration of the Texas Judicial System.

ART. 17.023 - AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES

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

(1) punishable as a felony; or

(2) a misdemeanor punishable by confinement.

(b) Notwithstanding any other law, a defendant to whom this article applies may

be released on bail only by a magistrate who is:

(1) any of the following:

(A) a resident of this state;

(B) a justice of the peace serving under Section 27.054 or 27.055, Government Code; or

(C) a judge or justice serving under Chapter 74, Government Code; and

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

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

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

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

ART. 17.024 - TRAINING ON DUTIES REGARDING BAIL

(a) The Office of Court Administration of the Texas Judicial System shall, in consultation with the court of criminal appeals, develop or approve training courses regarding a magistrate's duties, including duties with respect to setting bail in criminal cases. The courses developed must include:

(1) an eight-hour initial training course that includes the content of the applicable training course described by Article 17.0501; and

(2) a two-hour continuing education course.

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

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

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

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

(3) the magistrate demonstrates competency as provided by Subsection (b).

(c-1) Notwithstanding Subsection (c), a magistrate who is serving on April 1,

2022, is considered to be in compliance with Subsection (c)(1) if the magistrate successfully completes the training course not later than December 1, 2022. This subsection expires May 1, 2023.

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

Effective date: This article is effective on the 91st day after the adjournment of the 2nd special session, 12-2-21. See, Sec. 25(c) of S.B.6. The Office of Court Administration is required to create the training course required by this article not later than 4-1-22, see, Sec. 22(a)(2) of S.B. 6, but if it is able to do so earlier, OCA must notify the counties earlier.

ART. 17.025. OFFICERS TAKING BAIL BOND

A jailer licensed under Chapter 1701, Occupations Code, is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under this chapter.

ART. 17.026. ELECTRONIC FILING OF BAIL BOND

In any manner permitted by the county in which the bond is written, a bail bond may be filed electronically with the court, judge, magistrate, or other officer taking the bond.

Note: This authorization to allow the e-filing of bonds took effect September 1, 2015. It does not modify who is eligible to act as surety on a bond, but only authorizes a county to permit e-filing of the bond.

ART. 17.027 - RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE COMMITTED WHILE ON BAIL

(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 court specified by Subdivision (1) for purposes of reevaluating the bail decision, determining whether any bail conditions were violated, or taking any other applicable action.

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

ART. 17.028 - BAIL DECISION

(a) Without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order, after individualized consideration of all circumstances and of the factors required by Article 17.15(a), that the defendant be:

(1) granted personal bond with or without conditions;

(2) granted surety or cash bond with or without conditions; or

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

(b) In setting bail under this article, the magistrate shall impose the least restrictive conditions, if any, and the personal bond or cash or surety bond necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c) In each criminal case, unless specifically provided by other law, there is a rebuttable presumption that bail, conditions of release, or both bail and conditions of release are sufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c-1) Subsections (b) and (c) may not be construed as requiring the court to hold an evidentiary hearing that is not required by other law.

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

(1) is inconsistent with this article; or

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

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

(f) A defendant who is charged with an offense punishable as a Class B misdemeanor or any higher category of offense and who is unable to give bail in the amount required by a schedule or order described by Subsection (e), other than a defendant who is denied bail, shall be provided with the opportunity to file with the applicable magistrate a sworn affidavit in substantially the following form:

"On this ___ day of _____, 2____, I have been advised by _____ (name of the court or magistrate, as applicable) of the importance of providing true and complete information about my financial situation in connection with the charge pending against me. I am without means to pay _____ and I hereby request that an appropriate bail be set. (signature of defendant)."

(g) A defendant filing an affidavit under Subsection (f) shall complete a form to allow a magistrate to assess information relevant to the defendant's financial situation. The form must be the form used to request appointment of counsel under Article 26.04 or a form promulgated by the Office of Court Administration of the Texas Judicial System that collects, at a minimum and to the best of the defendant's knowledge, the information a court may consider under Article 26.04(m).

(g-1) The magistrate making the bail decision under Subsection (a) shall, if applicable:

(1) inform the defendant of the defendant's right to file an affidavit under Subsection (f); and

(2) ensure that the defendant receives reasonable assistance in completing the affidavit described by Subsection (f) and the form described by Subsection (g).

(h) A defendant described by Subsection (f) may file an affidavit under Subsection (f) at any time before or during the bail proceeding under Subsection (a). A defendant who files an affidavit under Subsection (f) is entitled to a prompt review by the magistrate on the bail amount. The review may be conducted by the magistrate making the bail decision under Subsection (a) or may occur as a separate pretrial proceeding. The magistrate shall consider the facts presented and the rules established by Article 17.15(a) and shall set the defendant's bail. If the magistrate does not set the defendant's bail in an amount below the amount required by the schedule or order described by Subsection (e), the magistrate shall issue written findings of fact supporting the bail decision.

(i) The judges of the courts trying criminal cases and other magistrates in a county must report to the Office of Court Administration of the Texas Judicial System each defendant for whom a review under Subsection (h) was not held within 48 hours of the defendant's arrest. If a delay occurs that will cause the review under Subsection (h) to be held later than 48 hours after the defendant's arrest, the magistrate or an employee of the court or of the county in which the defendant is confined must provide notice of the delay to the defendant's counsel or to the defendant, if the defendant does not have counsel.

(j) The magistrate may enter an order or take other action authorized by Article

16.22 with respect to a defendant who does not appear capable of executing an affidavit under Subsection (f).

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

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

(m) Notwithstanding Subsection (a), a magistrate may make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).

Effective date: The Office of Court Administration is required to create the affidavit form mentioned in section (g) of this article not later than 4-1-22, see, Sec. 22 of S.B. 6, but if it is able to do so earlier, OCA must notify the counties earlier.

ART. 17.03 – PERSONAL BOND

(a) Except as provided by Subsection (b) of this article, a magistrate may, in the magistrate's discretion, release the defendant on his personal bond without sureties or other security.

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

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

(A) [~~Section 19.03 (Capital Murder);~~

[~~(B) Section 20.04 (Aggravated Kidnapping);~~

[~~(C) Section 22.021 (Aggravated Sexual Assault);~~

[~~(D) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant);~~

[~~(E) Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);~~

[~~(F) Section 29.03 (Aggravated Robbery);~~

[~~(G)~~] Section 30.02 (Burglary); or

(B) [~~(H)~~] Section 71.02 (Engaging in Organized Criminal Activity);

[~~(I) Section 21.02 (Continuous Sexual Abuse of Young Child or~~

~~Disabled Individual); or~~

[~~(J) Section 20A.03 (Continuous Trafficking of Persons);~~]

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

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

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

(1) is charged with an offense involving violence; or

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

(A) any offense punishable as a felony; or

(B) an offense under the following provisions of the Penal Code:

(i) Section 22.01(a)(1) (assault);

(ii) Section 22.05 (deadly conduct);

(iii) Section 22.07 (terroristic threat); or

(iv) Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

(b-3) In this article:

(1) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Offense involving violence" means an offense under the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 20.03 (kidnapping);

(D) Section 20.04 (aggravated kidnapping);

(E) Section 20A.02 (trafficking of persons);

(F) Section 20A.03 (continuous trafficking of persons);

(G) Section 21.02 (continuous sexual abuse of young child or disabled individual);

(H) Section 21.11 (indecency with a child);

(I) Section 22.01(a)(1) (assault), if the offense is:

(i) punishable as a felony of the second degree under Subsection (b-2) of that section; or

(ii) punishable as a felony and involved family violence as

defined by Section 71.004, Family Code;

(J) Section 22.011 (sexual assault);

(K) Section 22.02 (aggravated assault);

(L) Section 22.021 (aggravated sexual assault);

(M) Section 22.04 (injury to a child, elderly individual, or disabled individual);

(N) Section 25.072 (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);

(O) Section 25.11 (continuous violence against the family);

(P) Section 29.03 (aggravated robbery);

(Q) Section 38.14 (taking or attempting to take weapon from peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer);

(R) Section 43.04 (aggravated promotion of prostitution), if the defendant is not alleged to have engaged in conduct constituting an offense under Section 43.02(a);

(S) Section 43.05 (compelling prostitution); or

(T) Section 43.25 (sexual performance by a child).

(c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate shall require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will serve to reasonably assure the appearance of the defendant for trial.

(d) The state may not use the results of any test conducted under this chapter in any criminal proceeding arising out of the offense for which the defendant is charged.

(e) Costs of testing may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

(f) In this article, "controlled substance" has the meaning assigned by Section 481.002 Health and Safety Code.

(g) The court may order that a personal bond fee assessed under Section 17.42 be:paid before a defendant is released;

(1) paid as a condition of bond;

(2) paid as court costs

(3) reduced as otherwise provided for by statute; or

(4) waived.

Note:

No financial condition may be attached to a personal bond. AG Op. GA-0048 (2003)

ART. 17.031 – RELEASE ON PERSONAL BOND

(a) Any magistrate in this state may release a defendant eligible for release on personal bond under Article 17.03 of this code on his personal bond where the complaint and warrant for arrest does not originate in the county wherein the accused is arrested if the magistrate would have had jurisdiction over the matter had the complaint arisen within the county wherein the magistrate presides. The personal bond may not be revoked by the judge of the court issuing the warrant for arrest except for good cause shown.

(b) If there is a personal bond office in the county from which the warrant for arrest was issued, the court releasing a defendant on his personal bond will forward a copy of the personal bond to the personal bond office in that county.

ART. 17.032. - RELEASE ON PERSONAL BOND OF CERTAIN DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

(a) In this article, "violent offense" means an offense under the following sections of the Penal Code:
   (1) Section 19.02 (murder);
   (2) Section 19.03 (capital murder);
   (3) Section 20.03 (kidnapping);
   (4) Section 20.04 (aggravated kidnapping);
   (5) Section 21.11 (indecency with a child);
   (6) Section 22.01 (a)(1) (assault);
   (7) Section 22.011 (sexual assault), if the offense involved family violence as defined by Section 71.004, Family Code;
   (8) Section 22.02 (aggravated assault);
   (9) Section 22.021 (aggravated sexual assault);
   (10) Section 22.04 (injury to a child, elderly individual or disabled individual);
   (11) Section 29.03 (aggravated robbery). or
   (12) Section 21.02 (continuous sexual abuse of young child or children); or
   (13) Section 20A.03 (continuous trafficking of persons).

(b) Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

(1) the defendant is not charged with and has not been previously convicted of a violent offense;

(2) the defendant is examined by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert under Article 16.22;

(3) the applicable expert, in a written report submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual and developmental disability services for the defendant, as applicable;

(4) the magistrate determines, in consultation with the local mental health authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual and developmental disability services for the defendant are available in accordance with Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual and developmental disability services provider; and

(5) the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(c) The magistrate, unless good cause is shown for not requiring treatment or services, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health treatment or intellectual and developmental disability services as recommended by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert if the defendant's:

(1) mental illness or intellectual disability is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant does not receive the recommended treatment or services.

(d) In addition to a condition of release imposed under Subsection (c), the magistrate may require the defendant to comply with other conditions that are reasonably necessary to ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

(e) In this article, a person is considered to have been convicted of an offense if:
(1) a sentence is imposed;
(2) the person is placed on community supervision or receives deferred adjudication; or
(3) the court defers final disposition of the case.

Art. 17.033 - RELEASE ON BOND OF CERTAIN PERSONS ARRESTED WITHOUT A WARRANT

(a) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed $5,000.00, not later than the 24th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in an amount of the bond, the person must be released on personal bond.

(a-1) Notwithstanding Subsection (a) and except as provided by Subsection (c), a person who, in a county with a population of three million or more, is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed $5000, not later than the 36th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense.

(b) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed $10,000.00, not later than the 48th hour after the person's arrest if the person was arrested for a felony and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a) or (b) for not more than 72 hours after the person's arrest. An application filed under this subsection must

state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a) and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a) and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

Art. 17.0331. IMPACT STUDY

(a) This article applies only to a county with a population of three million or more.

(b) Each county to which this article applies shall conduct an impact study to determine the effect of Article 17.033(a-1) on the county's ability to control and process the county's misdemeanor caseload, including a specific assessment of the effect of that subsection on:
(1) the average number of hours a person who is arrested for a misdemeanor is detained in jail before being released on bond;
(2) bonding practices, including the number of persons released on bond;
(3) the inmate population in a county jail and in each municipal jail located in the county;
(4) the number of arrests for misdemeanor offenses;
(5) public safety;
(6) costs to the criminal justice system; and
(7) the number of applications filed by the attorney representing the state under Article 17.033(c).

(c) The county shall also determine whether a more cost-effective method of controlling and processing misdemeanor caseloads exists than an extension of the period for which a person may be detained after a misdemeanor arrest.

(d) Not later than October 15, 2012, the county must file the impact study with:
(1) the commissioners court of the county;
(2) the Senate Committee on Criminal Justice;
(3) the Senate Committee on Jurisprudence; and
(4) the House Criminal Jurisprudence Committee.

(e) The county shall make the results of the impact study available to the public.

(f) This article expires on September 1, 2013.

ART. 17.04 – REQUISITES OF A PERSONAL BOND

A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In addition, a personal bond shall contain:

(1) the defendant's name, address, and place of employment;
(2) identification information, including the defendant's
  (A) date and place of birth;
  (B) height, weight, and color of hair and eyes;
  (C) driver's license number and state of issuance, if any; and
  (D) nearest relative's name and address, if any; and
(3) the following oath sworn and signed by the defendant: "I swear that I will appear before the (court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a.m. or p.m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear."

ART. 17.045 - BAIL BOND CERTIFICATES

A bail bond certificate with respect to which a fidelity and surety company has become surety as provided in the Automobile Club Services Act, or for any truck and bus association incorporated in this state, when posted by the person whose signature appears thereon, shall be accepted as bail bond in an amount not to exceed $200.00 to guarantee the appearance of such person in any court in this state when the person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state, except for the offense of driving while intoxicated or for any felony, and the alleged violation was committed prior to the date of expiration shown on such bail bond certificate.

ART. 17.05 - WHEN A BAIL BOND IS GIVEN

A bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant by a peace officer or jailer if authorized by Article 17.20, 17.21, or 17.22.

ART. 17.051 - REQUIRED TRAINING

The Department of Public Safety shall develop training courses that relate to the use of the statewide telecommunications system maintained by the department and that are directed to each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under this chapter, as necessary to enable the person to fulfill those requirements.

ART. 17.06 – CORPORATION AS SURETY

Wherever in this Chapter, any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety, subject to all the provisions of this Chapter regulating and governing the giving of bail bonds by personal surety insofar as the same is applicable.

Notes:

Any insurance corporation qualified to write fidelity and surety bonds by the Department of Insurance is entitled to be surety on a bail bond. A sheriff has no authority to question the solvency of such a corporation. That authority is given over exclusively to the Department of Insurance. International Fidelity Ins. Co. of Newark, N.J. v. Sheriff of Dallas County, 476 S.W. 2d 115 (Tex. App. - Beaumont, 1972), writ ref'd n.r.e.

A corporation that was not qualified to act as a surety could not engage in the bail bond or surety business. Freedom, Inc. v. State, 569 S.W.2d 48 (Tex. Crim. App. 1978).

ART. 17.07 - CORPORATION TO FILE WITH COUNTY CLERK POWER OF ATTORNEY DESIGNATING AGENT

(a) Any corporation authorized by the law of this State to act as a surety, shall before executing any bail bond as authorized in the preceding Article, first file in the office of the county clerk of the county where such bail bond is given, a power of attorney designating and authorizing the named agent, agents or attorney of such corporation to execute such bail bonds and thereafter the execution of such bail bonds by such agent, agents, or attorney, shall be a valid and binding obligation of such corporation.

(b) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk.

Note:

It is mandatory (note the "shall" language in this article) that a corporation acting as surety in a county file its power of attorney designating and authorizing the named agent or agents with the county clerk, prior to executing a bail bond.

ART. 17.071 - CHARITABLE BAIL ORGANIZATIONS

(a) In this article, "charitable bail organization" means a person who accepts and uses donations from the public to deposit money with a court in the amount of a defendant's bail bond. The term does not include:

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

(2) a nonprofit corporation organized for a religious purpose.

(b) 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) A person may not act as a charitable bail organization for the purpose of paying a defendant's bail bond in a county unless the person:

(1) is a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and

(2) has been issued a certificate under Subsection (d) with respect to that county. (501c3)

(d) A county clerk shall issue to a charitable bail organization a certificate authorizing the organization to pay bail bonds in the county if the clerk determines the organization is:

(1) a nonprofit organization described by Subsection (c)(1); and

(2) current on all filings required by the Internal Revenue Code.

(e) A charitable bail organization shall 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.

(f) Not later than the 10th day of each month, a charitable bail organization shall submit, to the sheriff of each county in which the organization files an affidavit under Subsection (e), a report that includes the following information for each defendant for

whom the organization paid a bail bond in the preceding calendar month:

(1) the name of the defendant;

(2) the cause number of the case;

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

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

(f-1) A sheriff who receives a report under Subsection (f) shall provide a copy of the report to the Office of Court Administration of the Texas Judicial System.

(g) A charitable bail organization may not pay 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.

(h) The sheriff of a county may suspend a charitable bail organization from paying bail bonds in the county for a period not to exceed one year if the sheriff determines the organization has paid one or more bonds in violation of this article and the organization has received a warning from the sheriff in the preceding 12-month period for another payment of bond made in violation of this article. The sheriff shall report the suspension to the Office of Court Administration of the Texas Judicial System.

(i) Chapter 22 applies to a bail bond paid by a charitable bail organization.

(j) A charitable bail organization may not accept a premium or compensation for paying a bail bond for a defendant.

(k) Not later than December 1 of each year, the Office of Court Administration of the Texas Judicial System shall prepare and submit, to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary, a report regarding the information submitted to the office under Subsections (f-1) and (h) for the preceding state fiscal year.

ART. 17.08 – REQUISITES OF A BAIL BOND

A bail bond must contain the following requisites:

1. That it be made payable to "The State of Texas";
2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;
3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;

4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;
5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where his presence may be required under this Code or by any court or magistrate, but in no event shall the sureties be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision or dismissed form the charge;
6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs, or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the condition of his bond.

Notes:

Although the requisites of a bond listed above should be contained in every bail bond which is executed, the failure to comply with some of the requisites will not exonerate the surety from liability should a forfeiture occur. If a surety signs and presents a bond without knowing which court the defendant should appear in, or which date the defendant should appear on and it later forfeits, the surety is still liable for the forfeiture.

The fact that the bond which was subject of forfeiture proceeding did not state the date and court at which principal was required to appear did not render the bond invalid. Scott v. State, 617 S.W.2d 691 (Tex. Crim. App. 1981).

An appearance bond was not void and unenforceable on the asserted ground that the defendant had failed to write his address thereon. Smith v. State, 566 S.W.2d 638 (Tex. Crim. App. 1978).

The surety waived any insufficiencies in bail bond's specification of time and place of principal's appearance by failing to correct problem when bond was executed; thus she could not contend that bond was invalid when state sought forfeiture. Marroquin v. State, 953 S.W.2d 829 (Tex. App. - Corpus Christi 1997).

The principal and the surety, who waived right to have bail bond state the court or magistrate before whom the principal was first to appear by their failure to assert such right when the bond was executed and presented for approval, could not complain of omission of such statement in the bond for the first time after the bond had been forfeited. Balboa v. State, 612 S.W. 2d 553 (Tex. Crim. App. 1981).

An appearance bond which had as one if its express conditions that the principal personally appear before the court instanter provided the principal with sufficient and proper notice of when he was to appear to satisfy due process rights. Serrano v. State, 804 S.W.2d 543 (Tex. App. -- Houston [14th Dist.] 1991).

ART. 17.081 - ADDITIONAL REQUISITES OF BAIL BOND GIVEN BY CERTAIN DEFENDANTS

In addition to the requirements of Article 17.08, a bail bond for a defendant charged with an offense under Section 20A.02, 20A.03, 43.02, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code, must include the address, identification number, and state of issuance as shown on a valid driver's license or identification card for the defendant and any surety, including any agent executing the bail bond on behalf of a corporation acting as surety.

Effective date: This article was part of HB 1005 passed during the regular session and is effective 9-1-21.

ART. 17.085. NOTICE OF APPEARANCE DATE

The clerk of a court that does not provide online Internet access to that court's criminal case records shall post in a designated public place in the courthouse notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting.

ART. 17.09 - DURATION; ORIGINAL AND SUBSEQUENT PROCEEDINGS; NEW BAIL

Sec. 1. Where a defendant, in the course of a criminal action, gives bail before any court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond shall be valid and binding upon the defendant and his sureties, if any, thereon, for the defendant's personal appearance

before the court or magistrate designated therein, as well as before any other court to which same may be transferred, and for any and all subsequent proceedings had relative to the charge, and each such bond shall be so conditioned except as hereinafter provided.

Sec.2. When a defendant has once given bail for his appearance in answer to a criminal charge, he shall not be required to give another bond in the course of the same criminal action except as herein provided.

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable or for any other good and sufficient cause, such judge or magistrate may either in term-time or in vacation, order the accused to be rearrested, and require the accused to give another bond in such amount as the judge or magistrate may deem proper. When such bond is so given and approved, the defendant shall be released from custody.

Notes:

Since the purpose of bail is to ensure the defendant's presence until trial or final disposition of the underlying criminal case, the principal and sureties will remain liable on the appearance bond for "all subsequent proceedings relative to the charge". In the case of an appeal bond, the surety will remain liable until the appellate court disposes of the case. Unfortunately, the appeal of a criminal case is often a very lengthy process and the sureties should be aware that they remain liable on the appeal bond until a mandate is issued. Therefore, appeal bonds should be entered into with caution. The question that sureties most often ask is what does the term "and for any and all subsequent proceedings had relative to the charge" actually mean? A quick look at some of the following cases will perhaps clarify the issue.

Issuance of an arrest warrant alone, without the principal's actually being rearrested and released under another bond, did not nullify prior appearance bond obligation. Fly v. State, 550 S.W.2d 684 (Tex. Crim. App. 1977)

Proceedings to adjudicate guilt and revoke probation were not "subsequent proceedings" for purpose of statute relating to liability of sureties on appearance bond; where defendant had pled guilty and was granted probation with deferred adjudication, and where he did not file motion to proceed to adjudication. Reed v. State, 702 S.W.2d 738 (Tex. App. - San Antonio 1985)

The primary purpose of bail is to insure the defendant's appearance at trial. It is not intended to insure compliance with the conditions of probation. Trammel v. State, 29 S.W.2d 528 (Tex. Crim. App. 1975).

The surety on an appearance bond was not discharged from liability when the principal entered into pretrial diversion agreement. Fisher v. State, 832 S.W.2d 641 (Tex. App. - Corpus Christi 1992)

Sureties under bail bond were not absolved from liability when defendant pled guilty to theft; rather, bond remained in effect after guilty plea to guarantee defendant's appearance at subsequent sentencing proceeding. Garcia v. State, 686 S.W.2d 281 (Tex. App. - San Antonio 1994)

A surety continues to be liable for the bond even if the severity of the charge changed as long as any subsequent charge relates to the same criminal episode. Garcia v. State, 292 S.W.3d 146 (Tex. App. - San Antonio, 2009)

ART. 17.091 – NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED

Before a judge or magistrate reduces the amount of bail set for a defendant charged with an offense listed in Section 3g, Article 42.12, an offense described by Article 62.01(5), or an offense under Section 20A.03, Penal Code the judge or magistrate shall provide:

(1) to the attorney representing the state, reasonable notice of the proposed bail reduction; and

(2) on request of the attorney representing the state or the defendant or the defendant's counsel, an opportunity for a hearing concerning the proposed bail reduction.

ART. 17.10 –DISQUALIFIED SURETIES

(a) A minor may not be surety on a bail bond, but the accused may sign as principal.

(b) A person, for compensation, may not be a surety on a bail bond written in a county in which a county bail bond board regulated under Chapter 1704, Occupations code, does not exist unless the person, within two years before the bail bond is given, completed in person at least eight hours of continuing legal education in criminal law course or bail bond law courses that are:

1) approved by the State Bar of Texas; and
2) offered by an accredited institution of higher education in this state.

(c) A person, for compensation, may not act as a surety on a bail bond if the person has been finally convicted of:

1) a misdemeanor involving moral turpitude; or
2) a felony.

Note:

Subsection (c) of this article was added by the 2011 session of the Legislature. The enactment language provides that the disqualification because of a final conviction applies to a conviction arising out of conduct that occurred on or after Sept 1, 2011. Convictions arising out of conduct that occurred earlier are controlled by prior (which means that that do not act as a disqualification.)

Subsection (c) of this article only applies in a county without a bail bond board. Disqualification for sureties because of a criminal conviction in counties that have bail bond boards is controlled by Occupations Code, Sec. 1704.153. Under that section, the disqualification date in those counties is August 27, 1973.

ART. 17.11 - HOW BAIL BOND IS TAKEN

Sec. 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a residence of this state, and has property therein liable to execution worth the sum for which he is bound.

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as the person is in default on the bond. It shall be the duty of the clerk of the court where the surety is in default on a bail bond to notify in writing the sheriff, chief of police, or other peace officer of the default. If a bail bond is taken for an offense other than a Class C misdemeanor, the clerk of the court where the surety is in default on the bond shall send notice of the default by certified mail to the last known address of the surety.

Sec. 3. A surety is considered to be in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedeas bond.

Notes:

Sec. 1 of this Article, sets the standard to be applied in acceptance of bail in non-bail bond board counties. (In a bail bond board county the surety must meet the licensing requirements set out in the Chapter 1704, Occupations Code.)

One surety who meets the "sufficiency of security offered" test is

sufficient to post bond. The "sufficiency of surety" test requires that after the surety subtracts all his debts, subtracts all of his exempt property (such as the homestead), and subtracts the value of any encumbrance from his assets, the surety's remaining assets must total at least double the amount of the bond. In addition, the surety must be a resident of the State of Texas, a citizen of the United States, and must own property in Texas that is non-exempt, unencumbered, valued at least in the amount of the bond, and is able to be sold in a "foreclosure"-type sale.

Attorneys acting as sureties are subject to examination of the sufficiency of their security under this Article. Minton v. Frank, 545 S.W.2d 442 (Tex. S. Ct. 1976)

This Article permits a sheriff to require bondsmen to fill out an application that details their finances. Castaneda v. Gonzalez, 985 S.W.2d 500 (Tex. App. - Corpus Christi 1998)

This Article does not permit the sheriff to require the posting of collateral and does not permit the sheriff to suspend a bondsman's authority to post bonds while in litigation concerning forfeitures. Id.

A sheriff in a county without a bail bond board may not adopt licensing rules modeled on those contained in Art. 2372p-3 (now Chapter 1704, Occupations Code.) AG Op. LO 98-105 (1998)

A municipal court is required to examine the sufficiency of the security of an attorney seeking to be surety on a bond. AG Op. JC-0277 (2000)

Sec. 3 of this Article describes when a surety is in "default" on a bond (when a writ of execution may be issued on a final bond forfeiture judgment - 30 days after the judgment is signed.)

Sec. 2 of this Article imposes a mandatory duty upon the clerk of the court to notify a sheriff of a "default" and a mandatory duty to send certified mail notice of the "default" to the surety.

ART. 17.12 – EXEMPT PROPERTY

The property secured by the Constitution and laws from forced sale shall not, in any case, be held liable for the satisfaction of bail, either as to principal or sureties, if any.

ART. 17.13 – SUFFICIENCY OF SURETIES ASCERTAINED

To test the sufficiency of the security offered to any bail bond, unless the court or officer taking the same is fully satisfied as to its sufficiency, the following oath shall be made in writing and subscribed by the sureties:

"I, do swear that I am worth, in my own right, at least the sum of (here insert the amount in which the surety is bond), after deducting from my property all that which is exempt by the Constitution and Laws of the State from forced sale, and after the payment of all my debts of every description, whether individual or security debts, and after satisfying all encumbrances upon my property which are known to me; that I reside in ..... County, and have property in this State liable to execution worth said amount or more.

(Dated....., and attested by the judge of the court, clerk, magistrate or sheriff.)"

Such affidavit shall be filed with the papers of the proceedings.

Note:

Any insurance corporation qualified to write fidelity and surety bonds by the Department of Insurance is entitled to be surety on a bail bond. A sheriff has no authority to question the solvency of such a corporation. That authority is given over exclusively to the Department of Insurance. International Fidelity Ins. Co. of Newark, N.J. v. Sheriff of Dallas County, 476 S.W. 2d 115 (Tex. App. - Beaumont, 1972), writ ref'd n.r.e.

ART. 17.14 – AFFIDAVIT NOT CONCLUSIVE

Such affidavit shall not be conclusive as to the sufficiency of the security; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered, further evidence shall be required before approving the same.

Notes:

In non-bail bond board counties, the court or sheriff may determine the solvency of sureties or attorneys by having them attest to the affidavit of solvency. However, it is within the discretion of the sheriff or court receiving bail to determine if they want additional information or evidence and they must be satisfied as to the sufficiency of the security offered before they accept the bail bond.

In a county having a bail bond board, the comprehensive statutory regulatory scheme for the business of writing bail bonds in such counties establishes the only method by which a bondsman's right to execute bonds may be suspended due to insolvency; thus, the sheriff has no authority to question the solvency of a licensed bail bondsman in such a county. Font v. Carr, 867 S.W.2d 873, (Tex. App. -- Houston [1st Dist.] 1993, pet. dism'd w.o.j.).

ART. 17.141 – ELIGIBLE BAIL BOND SURETIES IN CERTAIN COUNTIES

In a county in which a county bail bond board regulated under Chapter 1704, Occupations Code, does not exist, the sheriff may post a list of eligible bail bond sureties whose security has been determined to be sufficient. Each surety listed under this article must file annually a sworn financial statement with the sheriff.

ART. 17.15 – RULES FOR SETTING ~~FIXING~~ AMOUNT OF BAIL

(a) The amount of bail and any conditions of bail to be required in any case in which the defendant has been arrested are [~~is~~] to be regulated by the court, judge, magistrate, or officer taking the bail in accordance with Articles 17.20, 17.21, and 17.22 and[~~; they~~] are [~~to be~~] governed [~~in the exercise of this discretion~~] by the Constitution and [~~by~~] the following rules:

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

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

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

(A) is an offense involving violence as defined by Article 17.03; or

(B) involves violence directed against a peace officer.

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

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

6. The criminal history record information for the defendant, including information obtained through the statewide telecommunications system maintained by the Department of Public Safety and through the public safety report system developed under Article 17.021, shall be considered, including any acts of family violence, other

pending criminal charges, and any instances in which the defendant failed to appear in court following release on bail.

7. The citizenship status of the defendant shall be considered.

(a-1) Notwithstanding any other law, the duties imposed by Subsection (a)(6) with respect to obtaining and considering information through the public safety report system do not apply until April 1, 2022. This subsection expires June 1, 2022.

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

(c) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

Effective date: Sections (a) and (c) of this article take effect on the 91st day after adjournment of the 2nd special session (12-2-21).

Notes:

The primary purpose of bail is to secure the presence of the defendant in court upon the trial of the accusation against him. Cooley v. State, 232 S.W.3rd 228 (Tex. App. - Houston [1st Dist.] 2007). However, case law states additional factors that may or may not be considered in the setting of bail.

A defendant does not have a constitutional right to have bail set at an amount that at least one bondsman in the county is approved for making. Wright v. State, 976 S.W.2d 815 (Tex. App. -- Houston [1st Dist.] 1998, no pet.).

Circumstances and factors to be considered in determining amount of bail bond include petitioner's work record, family ties, residency, ability to make bond, prior criminal record, conformity with previous bond conditions, any outstanding bonds, and aggravating circumstances involved in the offense, court is also allowed to consider nature and circumstances of the offense committed. Ex parte Goosby, 685 S.W.2d 440 (Tex. App. -- Houston [1st Dist.] 1985)

Primary factors to be considered in determining what constitutes reasonable bail on appeal are length of sentence, and nature of offense; other data that should be considered include work record, family ties, and length of residence and ability to make bail. Swinnea v. State, 614 S.W.2d 453 (Tex. Crim. App. 1981).

Defendant claiming excessive bail must show that his funds and those of his family have been exhausted and that he has made unsuccessful effort to furnish bail in amount fixed. Wisenbaker v. State, 782 S.W.2d 534 (Tex. App. -- Houston [14th Dist.] 1989)

A trial court's decision concerning bail will be reversed only if it was made without reference to any guiding principles, even if the appellate court

would have reached a different result. Ex parte McLendon, 356 S.W.3d 541 (Tex. App. - Texarkana 2011)

ART. 17.151 – RELEASE BECAUSE OF DELAY

Sec. 1. A defendant who is detained in jail pending trial of an accusation against him must be released either on personal bond or by reducing the amount of bail required, if the state is not ready for trial of the criminal action for which he is being detained within:

(1) 90 days from the commencement of his detention if he is accused of a felony;

(2) 30 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days;

(3) 15 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; or

(4) 5 days from the commencement of his detention if he is accused of a misdemeanor punishable by a fine only.

Sec. 2. The provisions of this article do not apply to a defendant who is:

(1) serving a sentence of imprisonment for another offense while the defendant is serving that sentence;

(2) being detained pending trial of another accusation against the defendant as to which the applicable period has not yet elapsed;

(3) incompetent to stand trial, during the period of the defendant's incompetence; or

(4) being detained for a violation of the conditions of a previous release related to the safety of a victim of the alleged offense or to the safety of the community under this article.

Note:

This statute has been upheld as constitutional even though the Court of Criminal Appeals ruled much of the Speedy Trial Act unconstitutional. Jones v. State, 803 S.W.2d 712 (Tex. Cr. App. 1991). Generally this section does not affect the day-to-day business of the surety, as the State only has to make a "bare bones" showing that they were ready for trial and the defendant then has the duty to rebut that evidence.

ART. 17.152 – DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE RELEASE BECAUSE OF DELAY

In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(a) Except as otherwise provided by Subsection (d), a person who commits an offense under section 25.07, Penal Code, related to a violation of a condition of bond set in a family violence case and whose bail in the case under Section 25.07, Penal Code, or in the family violence case is revoked or forfeited for a violation of a condition of bond may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person violated a condition of bond related to:

(1) the safety of the victim of the offense under Section 25.07, Penal code, or the family violence case, as applicable; or

(2) the safety of the community.

(b) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, other than an offense related to a violation of a condition of bond set in a family violence case, may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person committed the offense.

(c) A person who commits an offense under Section 25.07(a) (3), Penal Code, may be held without bail under subsection (b) or (c), as applicable, only if following a hearing the judge or magistrate determines by a preponderance of the evidence that the person went to or near the place described in the order or condition of bond with the intent to commit or threaten to commit:

(1) family violence; or

(2) an act in furtherance of an offense under Section 42.072, Penal Code.

(d) In determining whether to deny release on bail under this article, the judge or magistrate may consider:

(1) The order or condition of bond;

(2) The nature and circumstances of the alleged offense;

(3) The relationship between the accused and the victim, including the history of that relationship;

(4) Any criminal history of the accused; and

(5) Any other facts or circumstances relevant to a determination of whether the accused poses an imminent threat of future family violence.

(e) A person arrested for committing an offense under Section 25.07, Penal Code, shall without unnecessary delay and after reasonable notice is given to the attorney representing the state, but not later than 48 hours after the person is arrested, be taken before a magistrate in accordance with Article 15.17. At that time, the magistrate shall conduct the hearing and make the determination required by this article.

ART. 17.153 – DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM

(a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal code, if committed against a child younger than 14 years of age:

(1) Chapter 21 (Sexual Offenses);

(2) Section 25.02 (Prohibited Sexual conduct); or

(3) Section 43.25 (Sexual Performance by a Child).

(4) Section 20A.02 (Trafficking of Persons), if the defendant is alleged to have:

(A) trafficked the child with the intent or knowledge that the child would engage in sexual conduct defined by Section 43.25, Penal Code; or

(B) benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, as defined by Section 43.25, Penal Code; or

(5) Section 43.05(a)(2) (Compelling Prostitution).

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

ART. 17.16 - DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE: VERIFICATION OF INCARCERATION

(a) A surety may before forfeiture relieve the surety of the surety's undertaking by:

(1) surrendering the accused into the custody of the sheriff of the county where the prosecution is pending; or

(2) delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in:

(A) federal custody, subject to Subsection (a-1);

(B) the custody of any state; or

(C) any county of this state.

(a-1) For purposes of Subsection (a)(2), the surety may not be relieved of the surety's undertaking if the accused is in federal custody to determine whether the accused is lawfully present in the United States.

(b) On receipt of an affidavit described by Subsection (a)(2), the sheriff of the county in which the prosecution is pending shall verify whether the accused is incarcerated as stated in the affidavit. If the sheriff verifies the statement in the affidavit, the sheriff shall notify the magistrate before which the prosecution is pending of the verification.

(c) On a verification described by this article, the sheriff shall place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated. On receipt of notice of a verification described by this article, the magistrate before which the prosecution is pending shall direct the clerk of the court to issue a capias for the arrest of the accused, except as provided by Subsection (d).

(d) A capias for the arrest of the accused is not required if:

(1) a warrant has been issued for the accused's arrest and remains outstanding; or

(2) the issuance of a capias would otherwise be unnecessary for the purpose of taking the accused into custody

(e) For the purposes of Subsection (a)(2) of this article,the bond is discharged and the surety is absolved of liability on the bond on the verification of the incarceration of the accused.

(f) An affidavit described by Subsection (a)(2) and the documentation of any verification obtained under Subsection (b) must be:

(1) filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court; and

(2) delivered to the office of the prosecuting attorney.

(g) A surety is liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

Notes:

The most difficult aspect of compliance with article 17.16 is understanding the context in which the "surrender" will actually work in the justice system. Article 17.16 only applies BEFORE FORFEITURE. In an unpublished opinion, Aldridge v. State, the court of appeals made it clear that Articles 17.16 and 17.19 are two separate methods by which a surety may surrender his principal.

Article 17.16 (a)(1) allows the surrender of a principal without warrant if the principal will surrender willingly and without the use of force. Austin v. State, 541 S.W.2d 162 (Tex. Crim. App. 1976)

Although Section (a) (1) of the statute states that the accused may be "surrendered" by taking him into the custody of the sheriff of the county where the prosecution is pending, in reality most sheriff's departments will be reluctant to accept the defendant because they think they have no reason to accept and detain a defendant absent some type of warrant or capias issued by the court. Section (a)(2) allows the surety to deliver to the sheriff of the county where the criminal case is pending an affidavit stating that the defendant is in federal custody, in the custody of any state, or in custody in any county in this state. Again, the intent behind the statute seems easy, but compliance because of local policies can be difficult. 2011 legislative changes now make it mandatory that the sheriff's department receiving the affidavit verify that the wanted defendant is incarcerated in another jurisdiction's custody. Once that determination is made, the sheriff must notify the court and then rely on the court to notify the clerk to issue a capias or warrant. That capias is the legal authority for the jurisdiction with the defendant in custody to continue to "detain" the defendant in the other jurisdiction on the charge in the issuing county. Once the verification is completed a copy of the verification affidavit must be given to the prosecutor and the verification affidavit must be filed in the criminal court file. Remember the purpose of bail is to assure the defendant's appearance in court to answer the criminal prosecution. The mere knowledge between the surety and an individual in the sheriff's department that the defendant is jailed in another jurisdiction will not return him to the jurisdiction where the criminal prosecution is pending without all of these steps being followed.

If the surety wrongfully surrenders the defendant, the remedy is a civil action by the defendant against the bondsman. Ex parte Vogler, 495 S.W.2d 893 (Tex. Cr. App. 1973)

A trial court lacks authority to hold a bondsman liable for bonds when the bondsman has delivered to the sheriff an affidavit that complies with this Article and the sheriff has verified that the defendant is in federal custody. Castaneda v. State, 138 S.W.3d 304 (Tex. Cr. App. 2003)

ART. 17.17 – WHEN SURRENDER IS MADE DURING TERM

If a surrender of the accused be made during a term of the court to which he has bound himself to appear, the sheriff shall take him before the court; and if he is willing to give other bail, the court shall forthwith require him to do so. If he fails or refuses to give bail, the court shall make an order that he be committed to jail until the bail is given, and this shall be a sufficient commitment without any written order to the sheriff.

Note:

Again, this section envisions the sheriff "walking" a "willingly surrendered defendant" to the court where his prosecution is pending after a surety has brought him to the sheriff to "surrender" him. The sheriff has the authority under this section to receive the defendant under the original capias. In reality, although it may be feasible for this section to be followed in a small county, generally, a larger county's sheriff will fear they have no authority to "book" the defendant into jail without the surety first obtaining a warrant under the provisions of Art. 17.19.

ART. 17.18 – SURRENDER IN VACATION

When the surrender is made at any other time than during the session of the court, the sheriff may take the necessary bail bond, but if the defendant fails or refuses to give other bail, the sheriff shall take him before the nearest magistrate; and such magistrate shall issue a warrant of commitment, reciting the fact that the accused has been once admitted to bail, has been surrendered, and now fails or refuses to give other bail.

ART. 17.19 – SURETY MAY OBTAIN A WARRANT

(a) Any surety, desiring to surrender his principal and after notifying the principal's attorney, if the principal is represented by an attorney, in a manner provided by Rule 21a, Texas Rules of Civil Procedure, of the surety's intention to surrender the

principal, may file an affidavit of such intention before the court or magistrate before which the prosecution is pending. The affidavit must state:

(1) the court and cause number of the case;
(2) the name of the defendant;
(3) the offense with which the defendant is charged;
(4) the date of the bond;
(5) the cause for the surrender; and
(6) that notice of the surety's intention to surrender the principal has been given as required by this subsection.

(b) In a prosecution pending before a court, if the court finds that there is cause for the surety to surrender the surety's principal, the court shall issue a capias for the principal. In a prosecution pending before a magistrate, if the magistrate finds that there is cause for the surety to surrender the surety's principal, the magistrate shall issue a warrant of arrest for the principal. It is an affirmative defense to any liability on the bond that:

(1) the court or magistrate refused to issue a capias or warrant of arrest or capias for the principal; and
(2) after the refusal to issue the capias or warrant the principal failed to appear.

(c) If the court or magistrate before whom the prosecution is pending is not available, the surety may deliver the affidavit to any other magistrate in the county and that magistrate, on a finding of cause for the surety to surrender the surety's principal, shall issue a warrant of arrest or capias for the principal.

(d) An arrest warrant or capias issued under this article shall be issued to the sheriff of the county in which the case is pending, and a copy of the warrant shall be issued to the surety or his agent

(e) An arrest warrant or capias issued under this article may be executed by a peace officer, a security officer, or a private investigator licensed in this state.

Notes:

It is important to remember that a warrant obtained under the provisions of this Article is not a release of liability on the bond. It simply results in the issuance of a new warrant that allows the surety to have the defendant returned to custody. If utilized properly, the Article 17.19 warrant is perhaps one of the most useful tools provided to the surety who wants to go off the bail bond and have the defendant returned to custody.

The first requirement is that the surety complete an affidavit (a sworn document) stating the court, cause number, defendant's name, offense the defendant is charged with, the date the bond was made, the cause for the surrender and a statement that the surety's intention to surrender the defendant has been given to the defendant's attorney in compliance with Rule 21a of the

Texas Rules of Civil Procedure. To comply with the Rule 21a requirement the surety must deliver the notice of intent to surrender to the defendant's attorney in person or by courier, or send the notice by certified or registered mail, or send the intent notice by fax. If challenged on whether notice was properly given, the surety should be able to prove compliance with this delivery of the notice of intent, so it is in the surety's best interest if delivery was made in person or by courier to have the defendant's attorney sign a document stating that he received the notice, or keep the return receipt from the certified or registered mail or keep the fax receipt along with the original faxed notice.

After notice has been given and the affidavit is prepared and sworn, the surety should proceed to the court that has jurisdiction of the underlying criminal cause of action. The surety should file his affidavit with the clerk of the court and present his affidavit to the judge requesting that a warrant issued for the defendant's arrest. Many courts are hesitant to just sign an "affidavit of surrender" or "affidavit to go off bail" without having the surety present to answer questions about the reasons for the surrender. If the judge finds there is cause for the surety to surrender the principal, the court shall issue a warrant for the defendant's arrest. (Note that in counties with a bail bond board, Chapter 1704, Occupations Code explicitly grants the court authority to order that all fees paid for making the bond be returned to the defendant if the court finds that the bond was surrendered without just cause.) If the judge or magistrate before whom the prosecution is pending is not available, the surety may deliver the affidavit to any other magistrate in the county and that magistrate or judge may find cause and issue the warrant for arrest. This is not an invitation to "forum shop." Most judges are case sensitive and want to make decisions regarding the rearrest of the defendants in their court.

It is an affirmative defense to any liability on the bond that the court or magistrate refused to issue a warrant of arrest for the principal and after the refusal to issue the warrant the defendant forfeited his bond by failing to appear in court.

If the judge finds cause and issues the warrant, but the defendant fails to appear, the surety continues to be liable on the forfeiture unless the defendant is returned to custody before the bond forfeiture case is taken to final judgment.

An arrest warrant issued under this article may be executed by a peace officer, a security officer, or a private investigator licensed in Texas. The surety must be aware that they are not authorized to send an agent, or bounty hunter who does not meet the above requirements to arrest someone. Participation in an unauthorized arrest could subject the surety or arresting agent to criminal charges.

The Texas Court of Criminal Appeals has stated that the common law as authorizing sureties to arrest principal without an arrest warrant as stated in the U.S. Supreme Court case of Taylor v. Taintor, was not the law in Texas since statutory guidelines have been promulgated and interpreted by Texas' courts to define the law as it applies to sureties who seek to surrender principals. Linder v. State, 734 S.W.2d 168 (Tex. App.-Waco, 1987)

Liability on a bail bond is not discharged after the issuance of a warrant under this Article until the defendant is taken back into custody. McConathy v. State, 545 S.W.2d 166 (Tex. Cr. App. 1977)

The surety does not preserve the affirmative defense under this Article if the affidavit is not filed with the judge or clerk of the court. Garza v. State, 919 S.W.2d 788 (Tex. App. - Houston [14th Dist.] 1996)

Merely filing an affidavit is not sufficient. The affidavit must be affirmatively presented to the judge or magistrate for signature or refusal. Maya v. State, 126 S.W.3d 581 (Tex. App. - Texarkana 2004)

The trial court has no authority to refuse to issue a warrant after a bondsman has submitted a proper affidavit. If the cause for the surrender is not adequate, the remedy is to order a refund of all or part of the fee paid by the defendant. McConathy v. State, 545 S.W.2d 166 (Tex. Cr. App. 1977)

ART. 17.20 – BAIL IN MISDEMEANOR

(a) In cases of misdemeanor, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, may, whether during the term of the court or in vacation, where the officer has a defendant in custody, take the defendant's [~~of the defendant a~~] bail [~~bond~~].

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

(c) Notwithstanding Subsection (b), a sheriff, peace officer, or jailer may make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).

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

ART. 17.21 – BAIL IN FELONY

In cases of felony, when the accused is in custody of the sheriff or other officer, and the court before which the prosecution is pending is in session in the county where the accused is in custody, the court shall fix the amount of bail, if it is a bailable case and determine if the accused is eligible for a personal bond; and the sheriff or other peace officer, unless it be the police of a city, or a jailer licensed under Chapter 1701, Occupations Code, is authorized to take a bail bond of the accused in the amount as fixed by the court, to be approved by such officer taking the same, and will thereupon discharge the accused from custody. The defendant and the defendant's sureties are not required to appear in court.

ART. 17.22 – MAY TAKE BAIL IN FELONY

(a) In a felony case, if the court before which the case [~~same~~] is pending is not in session in the county where the defendant is in custody, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, who has the defendant in custody may take the defendant's bail [~~bond~~] in the [~~such~~] amount set [~~as may have been fixed~~] by the court or magistrate, or if no amount has been set [~~fixed~~], then in any [~~such~~] amount that the [~~as such~~] officer considers [~~may consider~~] reasonable and that is in compliance with Article 17.15.

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

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

ART. 17.23 – SURETIES SEVERALLY BOUND

In all bail bonds taken under any provision of this Code, the sureties shall be severally bound. Where a surrender of the principal is made by one or more of them, all the sureties shall be considered discharged.

ART. 17.24 – GENERAL RULES APPLICABLE

All general rules in the Chapter are applicable to bail defendant before an examining court.

ART. 17.25 - PROCEEDINGS WHEN BAIL IS GRANTED

After a full examination of the testimony, the magistrate shall, if the case be one where bail may properly be granted and ought to be required, proceed to make an order that the accused execute a bail bond with sufficient security, conditioned for his appearance before the proper court.

ART. 17.26 - TIME GIVEN TO PROCURE BAIL

Reasonable time shall be given the accused to procure security.

ART. 17.27 – WHEN BAIL IS NOT GIVEN

If, after the allowance of a reasonable time, the security be not given, the magistrate shall make an order committing the accused to jail to be kept safely until legally discharged, and he shall issue a commitment accordingly.

ART. 17.28 – WHEN READY TO GIVE BAIL

If the party be ready to give bail, the magistrate shall cause to be prepared a bond, which shall be signed by the accused and his surety or sureties, if any.

ART. 17.29 - ACCUSED LIBERATED

(a) When the accused has given the required bond, either to the magistrate or the officer having him in custody, he shall at once be set at liberty.

(b) Before releasing on bail a person arrested for an offense under Section 42.072, Penal Code, or a person arrested or held without warrant in the prevention of family violence the law enforcement agency holding the person shall make a reasonable attempt to give personal notice of the imminent release to the victim of the alleged offense or to another person designated by the victim to receive the

notice. An attempt by an agency to give notice to the victim or the person designated by the victim at the victim's or person's last known telephone number or address, as shown on the records of the agency, constitutes a reasonable attempt to give notice under this subsection. If possible, the arresting officer shall collect the address and telephone number of the victim at the time the arrest is made and shall communicate that information to the agency holding the person.

(c) A law enforcement agency or an employee of a law enforcement agency is not liable for damages arising from complying or failing to comply with Subsection (b) of this article.

(d) In this section "family violence" has the meaning assigned by Section 71.01, Family Code.

ART. 17.291 - FURTHER DETENTION OF CERTAIN PERSONS

(a) In this article:

(1) "family violence" has the meaning assigned to that phrase by Section 71.01 (b)(2), Family code; and

(2) "magistrate" has the meaning assigned to it by Article 2.09 of this code, as amended by Chapter 25, 79, 2916, and 1068, Acts of the 71st Legislature, Regular Session, 1989.

(b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that:

(1) the violence would continue if the person is released; and

(2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:

(A) on more than one occasion for an offense involving family violence; or

(B) for any other offense, if a deadly weapon as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.

(a) At a defendant's appearance before a magistrate after arrest for an offense involving family violence or an offense under Section 22.011, 22.012, 22.021, or 42.072, Penal Code, the magistrate may issue an order for emergency protection on the magistrate's own motion or on the request of:
  (1) the victim of the offense;
  (2) the guardian of the victim
  (3) a peace officer; or
  (4) the attorney representing the state.

(b) At a defendant's appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:
  (1) serious bodily injury to the victim; or
  (2) the use or exhibition of a deadly weapon during the commission of an assault.

(c) The magistrate in the order for emergency protection may prohibit the arrested party from:
  (1) committing:
    (A) family violence or an assault on the person protected under the order; or
    (B) an act in furtherance of an offense under Section 42.072, Penal Code;
  (2) communicating:
    (A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner; or
    (B) a threat through any person to a member of the family or household or to the person protected under the order;
  (3) going to or near:
    (A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or
    (B) the residence, child care facility, or school where a child protected under the order resides or attends; or
  (4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

(c-1) In addition to the conditions described by Subsection c, the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global

positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

(d) The victim of the offense need not be present in court when the order for emergency protection is issued.

(e) In the order for emergency protection the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the location should be omitted.

(f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.

(g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS $4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE, IN ADDITION TO A VIOLATION OF THIS ORDER. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

(h) The magistrate issuing an order for emergency protection under this article shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the

person resides, if the person does not reside in a municipality. If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment. The clerk of the court shall send a copy of the order to the victim.

(i) If an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, the magistrate shall send a copy of the order to the child care facility or school.

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order in open court. An order for emergency protection issued under Subsection (a) or (b) (1) of this article remains in effect up to the 61st day but not less than 31 days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the 91st day but not less than 61 days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:

(1) the order as originally issued is unworkable;

(2) the modification will not place the victim of the offense at greater risk than did the original order; and

(3) the modification will not in any way endanger a person protected under the order.

(k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, each municipal police department and sheriff shall establish a procedure within the department or office to provide adequate information or access to information for peace officers of the names of persons protected by an order for emergency protection issued under this article and of persons to whom the order is directed. The police department or sheriff may enter an order for emergency protection issued under this article in the department's or office's record of outstanding warrants as notice that the order has been issued and is in effect.

(l) In the order for emergency protection, the magistrate may suspend a license to carry a concealed handgun issued under Section 411.177, Government Code, that is held by the defendant.

(m) In this article:

(1) "Family," "family violence," and "household" have the meanings assigned by Chapter 71, Family Code.

(2) "Firearm" has the meaning assigned by Chapter 46, Penal Code.

(n) On motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. On transfer, the criminal court may modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

ART. 17.293 - DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO OTHER PERSONS

The magistrate or clerk of the magistrate's court issuing an order for emergency protection under Article 17.292 that suspends a license to carry a concealed handgun shall immediately send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

(1) record the suspension of the license in the records of the department;
(2) report the suspension to local law enforcement agencies, as appropriate; and
(3) demand the surrender of the suspended license from the license holder.

ART. 17.294. CONFIDENTIALITY OF CERTAIN INFORMATION IN O R D E R FOR EMERGENCY PROTECTION.

On request by a person protected by an order for emergency protection issued under Article 17.292, or if determined necessary by the magistrate, the court issuing the order may protect the person's mailing address by rendering an order:

(1) requiring the person protected under the order to:

(A) disclose the person's mailing address to the court;

(B) designate another person to receive on behalf of the person any notice or documents filed with the court related to the order; and

(C) disclose the designated person's mailing address to the court;

(2) requiring the court clerk to:

(A) strike the mailing address of the person protected by the order from the public records of the court, if applicable; and

(B) maintain a confidential record of the mailing address for use only by:

(i) the court; or

(ii) a law enforcement agency for purposes of entering the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety; and

(3) prohibiting the release of the information to the defendant.

ART. 17.30 – SHALL CERTIFY PROCEEDINGS

The magistrate, before whom an examination has taken place upon a criminal accusation, shall certify to all the proceedings had before him, as well as where he discharges holds to bail or commits, and transmit them, sealed up, to the court before which the defendant may be tried, writing his name across the seals of the envelope. The voluntary statement of the defendant, the testimony, bail bonds, and every other proceeding in the case, shall be thus delivered to the clerk of the proper court, without delay.

ART. 17.31 - DUTY OF CLERKS WHO RECEIVE SUCH PROCEEDINGS

If the proceedings be delivered to a district clerk, he shall keep them safely and deliver the same to the next grand jury. If the proceedings are delivered to a county clerk, he shall without delay deliver them to the district or county attorney of his county.

ART. 17.32 – IN CASE OF NO ARREST

Upon failure from any cause to arrest the accused the magistrate shall file with the proper clerk the complaint, warrant of arrest, and a list of the witnesses.

ART. 17.33 – REQUEST SETTING OF BAIL

The accused may at any time after being confined request a magistrate to review the written statements of the witnesses for the State as well as all other evidence available at that time in determining the amount of bail. This setting of the amount of bail does not waive the defendant's right to an examining trial as provided in Article 16.01.

ART. 17.34 – WITNESSES TO GIVE BOND

Witnesses for the State or defendant may be required by the magistrate, upon the examination of any criminal accusation before him, to give bail for their appearance to testify before the proper court. A personal bond may be taken of a witness by the court before whom the case is pending.

ART. 17.35 - SECURITY OF WITNESS

The amount of security to be required of a witness is to be regulated by his pecuniary condition, character and the nature of the offense with respect to which he is a witness.

ART. 17.36 – EFFECT OF WITNESS BOND

The bond given by a witness for his appearance has the same effect as a bond of the accused and may be forfeited and recovered upon in the same manner.

ART. 17.37 – WITNESS MAY BE COMMITTED

A witness required to give bail who fails or refuses to do so shall be committed to jail as in other cases of a failure to give bail when required, but shall be released from custody upon giving such bail.

ART. 17.38 - RULES APPLICABLE TO ALL CASES OF BAIL

The rules in this Chapter respecting bail are applicable to all such undertakings when entered into in the course of a criminal action, whether before or after an indictment, in every case where authority is given to any court, judge, magistrate, or other officer, to require bail of a person accused of an offense, or of a witness in a criminal action.

ART. 17.39 – RECORDS OF BAIL

A magistrate or other officer who sets the amount of bail or who takes bail shall record in a well-bound book the name of the person whose appearance the bail secures, the amount of bail, the date bail is set, the magistrate or officer who sets bail, the offense or other cause for which the appearance is secured, the magistrate or other officer who takes bail, the date the person is released, and the name of the bondsman, if any.

ART. 17.40 – CONDITIONS RELATED TO VICTIM OR COMMUNITY SAFETY

(a) To secure a defendant's attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community.

(b) At a hearing limited to determining whether the defendant violated a condition of bond imposed under subsection (a), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

ART. 17.41 – CONDITION WHERE CHILD ALLEGED VICTIM

a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 18 [~~14~~] years of age:

(1) Chapter 20A (Trafficking of Persons), 21 (Sexual Offenses), [~~or~~] 22 (Assaultive Offenses), or 43 (Public Indecency); or

(2) Section 25.02 (Prohibited Sexual Conduct) [~~; or~~

[~~(3) Section 43.25 (Sexual Performance by a Child)~~].

(a) Subject to Subsections (c) and (d), a magistrate shall require as a condition of bond for a defendant charged with an offense described by Subsection (a) that the defendant not:

(1) directly communicate with the alleged victim of the offense; or

(2) go near a residence, school, or other location, as specifically described in the bond frequented by the alleged victim.

(b) A magistrate who imposes a condition of bond under this article may grant the defendant supervised access to the alleged victim.

(c) To the extent that a condition imposed under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for a period specified by the magistrate, not to exceed 90 days.

Effective date: The amendments to this article were part of HB 1005 passed during the regular session and are effective 9-1-21.

ART. 17.42 – PERSONAL BOND OFFICE

Sec. 1. Any county, or any judicial district with jurisdiction to more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2.

(a) The commissioner's court of a county that establishes the office or the district and county judges of a judicial district that establishes the office may employ a director of the office.

(b) The director may employ the staff authorized by the commissioner's court of the county or the commissioner's court of each county in the judicial district.

Sec. 3. If a judicial district establishes an office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population.

Sec. 4.

(a) Except as otherwise provided by this subsection, if a court releases an accused on personal bond on the recommendation of a personal bond office, the court shall assess a personal bond reimbursement fee of $20 or three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown. A court that requires a defendant to give a personal bond under Article 45.016 may not assess a personal bond fee under this subsection.

(b) Reimbursement fees collected under this article may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Reimbursement fees collected under this article shall be deposited in the county treasury, or if the office serves more than one county, the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

Sec. 5.

(a) A personal pretrial release office established under this article shall:

(1) prepare a record containing information about any accused person identified by case number only who, after review by the office, is released by a court on personal bond before sentencing in a pending case;

(2) update the record on a monthly basis; and

(3) file a copy of the record in the office of the clerk of the county court in any county served by the office.

(b) In preparing a record under subsection (a), the office shall include in the record a statement of:

(1) the offense with which the person is charged;

(2) the dates of any court appearances scheduled in the matter that were previously unattended by the person;

(3) whether a warrant has been issued for the person's arrest for failure to appear in accordance with the terms of the person's release;

(4) whether the person has failed to comply with conditions of release on personal bond; and

(5) the presiding judge or magistrate who authorized the personal bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

Sec. 6.

(a) Not later than April 1 of each year, a personal bond office established under this article shall submit to the commissioners court or district and county judges that established the office an annual report containing information about the operations of the office during the preceding year.

(b) In preparing an annual report under Subsection (a), the office shall include in the report a statement of:

(1) the office's operation budget;

(2) the number of positions maintained for office staff;

(3) the number of accused persons who, after review by the office, were released by a court on personal bond before sentencing in a pending case; and

(4) the number of persons described by Subdivision (3):

(A) who failed to attend a scheduled court appearance;

(B) for whom a warrant was issued for the arrest of those persons for failure to appear in accordance with the terms of their release; or

(C) who, while released on personal bond, were arrested for any other offense in the same county in which the persons were released on bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

ART. 17.43 – HOME CURFEW AND ELECTRONIC MONITORING AS CONDITION

(a) A magistrate may require as a condition of release on personal bond that the defendant submit to home curfew and electronic monitoring under the supervision of an agency designated by the magistrate.

(b) Cost of monitoring may be assessed as reimbursement fees or ordered paid directly by the defendant as a condition of bond.

ART. 17.44 – HOME CONFINEMENT, ELECTRONIC MONITORING, AND DRUG TESTING AS CONDITION

(a) A magistrate may require as a condition of release on bond that the defendant submit to:

(1) home confinement and electronic monitoring under the supervision of an agency designated by the magistrate; or

(2) testing on a weekly basis for the presence of a controlled substance, in the defendant's body.

(b) In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(c) The magistrate may revoke the bond and order the defendant arrested if the defendant:

(1) violates a condition of home confinement and electronic monitoring;

(2) refuses to submit to a test for controlled substances, or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or,

(3) fails to pay the reimbursement fees for monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered

(d) The community justice assistance division of the Texas Department of Criminal Justice may provide grants to counties to implement electronic monitoring programs authorized by this article.

(e) The costs of electronic monitoring or testing for controlled substances under this article may be assessed as a reimbursement fee or ordered paid directly by the defendant as a condition of bond.

ART. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK

(a) Except as provided by Subsection (b), a magistrate shall require on release that defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, or an offense under Section 49.07 or 48.08 of that code:
   (1) have installed on the motor vehicle owned by the defendant or on the vehicle
   (2) most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and
   (3) not operate any motor vehicle unless the vehicle is equipped with that device.

(b) The magistrate may not require the installation of the device if the magistrate finds that to require the device would not be in the best interest of justice.

(c) If the defendant is required to have the device installed, the magistrate shall require that the defendant have the device installed on the appropriate motor vehicle, at the defendant's expense, before the 30th day after the date the defendant is released on bond.

(d) The magistrate may designate an appropriate agency to verify the installation of the device and to monitor the device. If the magistrate designates and agency under this subsection, in each month during which the agency verifies the installation of the device or provides a monitoring service the defendant shall pay a reimbursement fee to the designated agency in the amount set by the magistrate. The defendant shall pay the initial reimbursement fee at the time the agency verifies the installation of the device. In each subsequent month during which the defendant is required to pay a reimbursement fee the defendant shall pay the fee on the first occasion in that month that the agency provides a monitoring service. The magistrate shall set the fee in an amount not to exceed $10 as determined by the county auditor, or by the commissioners court of the county if the county does not have a county auditor, to be sufficient to cover the cost incurred by the designated agency in conducting the verification or providing the monitoring service; as applicable in that county.

ART. 17.45 – CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION

A magistrate may require as a condition of bond that a defendant charged with an offense under Section 43.02, Penal Code, receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus.

ART. 17.46. CONDITIONS FOR A DEFENDANT CHARGED WITH STALKING

(a) A magistrate may require as a condition of release on bond that a defendant charged with an offense under Section 42.072, Penal Code, may not:

(1) communicate directly or indirectly with the victim; or

(2) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(b) If the magistrate requires the prohibition contained in Subsection (a) (2) of this article as a condition of release on bond the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the defendant must maintain from the location.

ART. 17.465 - CONDITIONS FOR DEFENDANT CHARGED WITH CERTAIN TRAFFICKING OR PROSTITUTION RELATED OFFENSES INVOLVING ADULT VICTIMS

(a) This article does not apply with respect to a defendant to whom Article 17.41 applies.

(b) A magistrate shall require as a condition of release on bond that a defendant charged with an offense under Section 20A.02, 20A.03, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code, committed against a person 18 years of age or older may not:

(1) communicate directly or indirectly with the victim; or

(2) go to or near:

(A) the residence, place of employment, or business of the victim; or

(B) if applicable, a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(c) The magistrate shall specifically describe the prohibited locations under Subsection (b)(2) and the minimum distances, if any, that the defendant must maintain from the locations.

(d) At a hearing limited to determining whether the defendant violated a condition of bond imposed under Subsection (b), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge

any surety from liability for previous forfeitures on the bond.

Effective date: This article was part of HB 1005 passed during the regular session and is effective 9-1-21.

ART. 17.47 - CONDITION REQUIRING SUBMISSION OF SPECIMEN:

A magistrate shall require as a condition of release of a defendant described by Section 411.1471(a), Government Code, that the defendant provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

ART. 17.48 – POSTTRIAL ACTIONS

A convicting court on entering a finding favorable to a convicted person under Article 64.04, after a hearing at which the attorney representing the state and the counsel for the defendant are entitled to appear, may release the convicted person on bail under this chapter pending the conclusion of court proceedings or proceedings under section 11, Article IV, Texas Constitution, and Article 48.01.

ART. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE

(a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay a reimbursement fee for the costs associated with operating that system in relation to the defendant; or

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), p a y a reimbursement fee for the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

(c) Before imposing a condition described by Subsection (b) (1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b) (3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;

(5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails

(6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider t h e likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay a reimbursement fee under Subsection (b) (2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

(j) A magistrate that imposes a condition described by Subsection (b) (1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

(k) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(l) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

ART. 17.51 - NOTICE OF CONDITIONS

(a) As soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing a condition previously imposed, the clerk of the court shall send a copy of the order to:

(1) the appropriate attorney representing the state; and

(2) the sheriff of the county where the defendant resides.

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

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

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

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

(1) the conditions of release on bond; and

(2) the penalties for violating a condition of release.

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

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

Effective date: The Office of Court Administration is required to have the form described by this article not later than 4-1-22, see Sec. 22(a)(1) of S.B. 6.

ART. 17.52 - REPORTING OF CONDITIONS

A chief of police or sheriff who receives a copy of an order described by Article 17.51(a), or the chief's or sheriff's designee, shall, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove information, as appropriate.

ART. 17.53 - PROCEDURES AND FORMS RELATED TO MONETARY BOND

The Office of Court Administration of the Texas Judicial System shall develop statewide procedures and prescribe forms to be used by a court to facilitate:

(1) the refund of any cash funds paid toward a monetary bond, with an emphasis on refunding those funds to the person in whose name the receipt described by Article 17.02 was issued; and

(2) the application of those cash funds to the defendant's outstanding court costs, fines, and fees.

Effective date: The Office of Court Administration is required to have the form described by this article not later than 4-1-22, see Sec. 22(a)(2) of S.B. 6.

CHAPTER 22

TEXAS CODE OF CRIMINAL PROCEDURE

FORFEITURE OF BAIL

(text current through the 2019 legislative session)

Art. 22.01. Bail forfeited, when

When a defendant is bound by bail to appear and fails to appear in any court in which such case may be pending and at any time when his personal appearance is required under this Code, or by any court or magistrate, a forfeiture of his bail and a judicial declaration of such forfeiture shall be taken in the manner provided in Article 22.02 of this Code and entered by such court.

Art. 22.02. Manner of taking a forfeiture

Bail bonds and personal bonds are forfeited in the following manner: The name of the defendant shall be called distinctly at the courthouse door, and if the defendant does not appear within a reasonable time after such call is made, judgment shall be entered that the State of Texas recover of the defendant the amount of money in which he is bound, and of his sureties, if any, the amount of money in which they are respectively bound, which judgment shall state that the same will be made final, unless good cause be shown why the defendant did not appear.

Notes:

The judgment nisi is prima facie proof that the state complied with the requirements of this Article. At trial the state can request that the court take judicial notice of the judgment nisi. The burden then shifts to the surety to affirmatively show non-compliance, Marroquin v. State, 861 S.W.2d 878 (Tex. App. - Corpus Christi 1992)

Art. 17.40 permits a magistrate to "impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community." More and more frequently, courts are requiring counseling, drug and alcohol testing, electronic monitoring, GPS monitors and even stating particular addresses or particular locations where the defendant may not go. Any of the conditions permitted by Art. 17.40 can be imposed upon any form of release on bond. Note that Art. 17.40(b) states that the magistrate may revoke the defendant's bond if the magistrate finds by a preponderance of the evidence that the def. violated a condition of his bond. No statute permits the forfeiture of a bond for anything other than a failure to appear in court.

Appearing within 3-5 minutes after the call of the case was within a reasonable time and will not support a forfeiture of the bond. Meador v. State, 780 S.W.2d 836 (Tex. App. - Houston [14th Dist.] 1989) Moreover, the court cannot forfeit the bond for failure of the defendant to hire an attorney. Id.

Art. 22.03. Citation to sureties

(a) Upon entry of judgment, a citation shall issue forthwith notifying the sureties

of the defendant, if any, that the bond has been forfeited, and requiring them to appear and show cause why the judgment of forfeiture should not be made final.

(b) A citation to a surety who is an individual shall be served to the individual at the address shown on the face of the bond or the last known address of the individual.

(c) A citation to a surety that is a corporation or other entity shall be served to the attorney designated for service of process by the corporation or entity under Chapter 804, Insurance Code.

(d) By filing the waiver or designation in writing with the clerk of the court, a surety may waive service of citation or may designate a person other than the surety or the surety's attorney to receive service of citation under this article. The waiver or designation is effective until a written revocation is filed with the clerk.

Art. 22.035. Citation to Defendant Posting Cash Bond

A citation to a defendant who posted a cash bond shall be served to the defendant at the address shown on the face of the bond or the last known address of the defendant.

Art. 22.04. Requisites of citation

A citation shall be sufficient if it be in the form provided for citations in civil cases in such court; provided, however, that a copy of the judgment of forfeiture entered by the court, a copy of the forfeited bond, and a copy of any power of attorney attached to the forfeited bond shall be attached to the citation and the citation shall notify the parties cited to appear and show cause why the judgment of forfeiture should not be made final.

Notes:

The language in the citation that sureties "appear and show cause why the judgment of forfeiture should not be made final" is mandatory and attaching the judgment nisi with that language to the citation is insufficient to show compliance. Hubbard v. State, 814 S.W.2d 402 (Tex. App. - Waco 1991).

"Because the citation served on Allegheny did not contain the mandatory language of article 22.04 and the record did not affirmatively show that a copy of the judgment nisi was attached to Allegheny's citation as required by Article 22.01, the default final judgment rendered against Allegheny was improper." Davie Westmoreland d/b/a/ Allegheny Casualty Co. v. State, __ S.W.3d __, No. 12-06-00104-CV decided March 7, 2007 (Tex. App. - Tyler)

Art. 22.05. Citation as in civil actions

If service of citation is not waived under Article 22.03, a surety is entitled to notice

by service of citation, the length of time and in the manner required in civil actions; and the officer executing the citation shall return the same as in civil actions. It shall not be necessary to give notice to the defendant unless he has furnished his address on the bond, in which event notice to the defendant shall be deposited in the United States mail directed to the defendant at the address shown on the bond or the last known address of the defendant.

Notes:

Service on the defendant is required only if the bond has the defendant's address. Service need only be by regular mail. Compliance with this requirement is presumed unless the record affirmatively shows non-compliance. Escobar v. State, 587 S.W.2d 714 (Tex. Cr. App. 1979).

Service on the surety must be by citation served like any civil action.

The surety can save service costs by filing a waiver of service and picking up the citation. However, a surety must be sure that a system is in place in that county for the surety to receive actual notice of the forfeiture before choosing to waive service of citation. If not, the surety may wind up having default judgments entered against him.

Art. 22.06. Citation by publication

Where the surety is a nonresident of the State, or where he is a transient person, or where his residence is unknown, the district or county attorney may, upon application in writing to the county clerk, stating the facts, obtain a citation to be served by publication; and the same shall be served by a publication and returned as in civil actions.

Art. 22.07. Cost of publication

When service of citation is made by publication, the county in which the forfeiture has been taken shall pay the costs thereof, to be taxed as costs in the case.

Art. 22.08. Service out of the state

Service of a certified copy of the citation upon any absent or non-resident surety may be made outside of the limits of this State by any person competent to make oath of the fact; and the affidavit of such person, stating the facts of such service, shall be a sufficient return.

Art. 22.09. When surety is dead

If the surety is dead at the time the forfeiture is taken, the forfeiture shall nevertheless be valid. The final judgment shall not be rendered where a surety has died, either before or after the forfeiture has been taken, unless his executor, administrator or heirs, as the case may be, have been cited to appear and show cause why the judgment should not be made final, in the same manner as provided in the case of the surety.

Art. 22.10. Scire facias docket

When a forfeiture has been declared upon a bond, the court or clerk shall docket the case upon the scire facias or upon the civil docket, in the name of the State of Texas, as plaintiff, and the principal and his sureties, if any, as defendants; and, except as otherwise provided by this chapter, the proceedings had therein shall be governed by the same rules governing other civil suits.

Note:

The Texas Rules of Civil Procedure govern these cases, although they retain their criminal character. For that reason, an appeal by the surety ultimately goes to the Court of Criminal Appeals. Blue v. State, 341 S.W. 2d 917 (Tex. Cr. App. 1960)

Art. 22.11. Sureties may answer

After the forfeiture of the bond, if the sureties, if any, have been duly notified, the sureties, if any, may answer in writing and show cause why the defendant did not appear, which answer may be filed within the time limited for answering in other civil actions.

Notes:

The surety's answer must be in writing and filed with the clerk of the court. In county and district court cases, it must be filed by 10:00 a.m. on the Monday following the expiration of 20 days from the day that citation was served on you.

In justice court cases that were pending prior to August 31, 2013, the answer must be filed by 10:00 a.m. on the Monday following the expiration of 10 days from the day that citation was served. For cases filed after August 31, 2013, the answer is due by the end of the 14th day after the day of service. If the 14th day is a Saturday, Sunday or legal holiday, the answer is due by the end of the first day following the 14th day that isn't a Saturday, Sunday or legal holiday.

The answer should include a general denial and must specifically plead any defenses that the surety intends to rely upon. The original answer can be amended at a later date.

A party is entitled to at least 45 days notice of the first trial setting. Tex.R.Civ.Proc., R. 245.

Requests for continuance must be in writing and must be supported by affidavit. Tex.R.Civ.Proc., R. 251. Whether to grant the request is discretionary with the judge.

Art. 22.12. Proceedings not set aside for defect of form.

The bond, the judgment declaring the forfeiture, the citation and the return thereupon,

shall not be set aside because of any defect of form; but such defect of form may, at any time, be amended under the direction of the court.

Notes:

The judgment nisi can be amended.

Failure of the judge to sign the judgment nisi does not make it invalid. Bennett v. State, 394 S.W.2d 804 (Tex. Cr. App. 1965).

Art. 22.125. Powers of the Court

After a judicial declaration of forfeiture is entered, the court may proceed with the trial required by Article 22.14 of this code. The court may exonerate the defendant and his sureties, if any, from liability on the forfeiture, remit the amount of the forfeiture, or set aside the forfeiture only as expressly provided by this chapter. The court may approve any proposed settlement of the liability on the forfeiture that is agreed to by the state and by the defendant or the defendant's sureties, if any.

Notes:

The state's attorney and the surety can settle the case before trial on any terms that they find agreeable. Such a settlement does not have to fit any particular framework. In many counties, the settlement policy deviates markedly from what state law provides, but the policy works for all parties in that county.

In counties with a bail bond board, Occupations Code, Sec. 1704.205 also applies. That section allows the parties to recommend a settlement to the court, and also permits a court to approve a settlement on its own motion.

The state's attorney has an absolute right to file a notice of non-suit, and the court has no discretion to refuse to allow the non-suit. Tinker v. State, 561 S.W. 2d 200 (Tex. Cr. App. 1978).

Art. 22.13. Causes which will exonerate

(a) The following causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken:

1. That the bond is, for any cause, not a valid and binding undertaking in law. If it be valid and binding as to the principal, and one or more of his sureties, if any, they shall not be exonerated from liability because of its being invalid and not binding as to another surety or sureties, if any. If it be invalid and not binding as to the principal, each of the sureties, if any, shall be exonerated from liability. If it be valid and binding as to the principal, but not so as to the sureties, if any, the principal shall not be exonerated, but the sureties, if any, shall be.
2. The death of the principal before the forfeiture was taken.
3. The sickness of the principal or some uncontrollable circumstance which

prevented his appearance at court, and it must, in every such case, be shown that his failure to appear arose from no fault on his part. The causes mentioned in this subdivision shall not be deemed sufficient to exonerate the principal and his sureties, if any, unless such principal appear before final judgment on the bond to answer the accusation against him, or show sufficient cause for not so appearing.

4. Failure to present an indictment or information at the first term of the court which may be held after the principal has been admitted to bail, in case where the party was bound over before indictment or information, and the prosecution has not been continued by order of the court.

5. The incarceration of the principal in any jurisdiction in the United States:

(A) in the case of a misdemeanor, at the time of or not later than the 180th day after the date of the principal's failure to appear in court; or

(B) in the case of a felony, at the time of or not later than the 270th day after the date of the principal's failure to appear in court.

(b) A surety exonerated under Subdivision 5, Subsection (a), remains obligated to pay costs of court, any reasonable and necessary costs incurred by a county to secure the return of the principal, and interest accrued on the bond amount from the date of the judgment nisi to the date of the principal's incarceration.

Notes:

These reasons for exoneration are treated as affirmative defenses. It is clear that the burden of proof is with the surety. See, Hill v. State, 955 S.W.2d 96 (Tex. Cr. App. 1997). Accordingly, the surety must plead these in the answer and must be prepared to prove them at time of trial.

An exoneration under the first four subdivisions of this article should mean that the surety pays nothing, not even costs of court.

Exoneration under Subd. 1 is complete if the defendant fails to sign the bond. Walker v. State, 6 S.W./ 2d 356 (Tex. Cr. App. 1928)

An exoneration under subdivision 4 of this article is an issue that can be raised by the surety for the first time at the trial of the forfeiture case. Acevedo v. State, 18 S.W.3d 775 (Tex. App. - San Antonio 2000).

Exoneration under subdivision 5 of this article does not depend upon the return of the defendant to the prosecuting county. If the defendant is incarcerated anywhere in the United States within the specified time periods, the defense is proven without the necessity of showing that the defendant was subsequently returned. Benson v. State, __ S.W.3d __, (Tex. App. — Austin, No. 03-15-00121-CR, decided Aug. 31, 2015, writ ref'd).

An exoneration under subdivision 5 of this article is not complete. The surety must still pay the listed items under Art. 22.13(b). Note, particularly, that the

interest calculation is very different from interest under Art. 22.16. Under this subdivision, interest starts on the day when the court signs the judgment nisi and stops on the date when the defendant was incarcerated. Thus, a quick arrest after forfeiture means the surety is obligated to pay little or no interest. If the surety bring the defendant back to the county where the prosecution is pending, the surety will pay the state no return costs either.

The Court of Criminal Appeals unanimously held that the exoneration defense contained in subdivision 5 is constitutional. Safety National Casualty Corp. v. State, 273 S.W.3d 157 (2008)

Art. 22.14. Judgment final

When, upon a trial of the issues presented, no sufficient cause is shown for the failure of the principal to appear, the judgment shall be made final against him and his sureties, if any, for the amount in which they are respectively bound; and the same shall be collected by execution as in civil actions. Separate executions shall issue against each party for the amount adjudged against him. The costs shall be equally divided between the sureties, if there be more than one.

Notes:

A judgment that is not jointly and severally against the defendant and his sureties may be fatally defective. Joe's Bonding Co. v. State, 481 S.W.2d 145 (Tex. Cr. App.1972).

The judgment may not award post judgment interest, Bailout Bonding Co. v. State, 797 S.W.2d 275 (Tex. App. - Dallas 1990), and may award pre-judgment interest only if the court has granted the surety's motion for remittitur.

The judgment may not award attorney's fees to the state, Hubbard v. State, 814 S.W.2d 402 (Tex. App. - Waco 1991).

A judgment is no longer appealable after 30 days unless a motion for new trial has been filed within that same 30 day period. [Further note that in justice court the deadline is ten days, not thirty.]

The time deadlines for an appeal can get complicated. If no motion for new trial has been filed, the notice of appeal must be filed within 30 days after the date of judgment. If a motion for new trial was filed within 30 days, and the court overrules the motion or the motion is overruled by operation of law [on the 75th day after the date of judgment (not 75 days after the 30 days)], the notice of appeal must be filed not later than the 90th day after the date of judgment. [Further note that the deadlines are different in justice court.]

The state has no right to appeal a bond forfeiture judgment, State v. Sellers, 790 S.W.2d 316 (Tex. Cr. App. 1990). 8

Art. 22.15. Judgment final by default

When the sureties have been duly cited and fail to answer, and the principal also fails to answer within the time limited for answering in other civil actions, the court shall enter judgment final by default.

Notes:

If the failure of the surety to appear for trial was not intentional or the result of conscious indifference, but was because of accident or mistake, a motion for new trial must allege that and set out those facts. The surety has the burden of proof on that issue. Craddock v. Sunshine Bus Lines, 133 S.W.2d 124 (Tex. Comm. App. 1939).

A default judgment, just like a judgment after a contested case or an agreed case is no longer appealable after 30 days unless a motion for new trial has been filed within that same 30 day period. [Further note that in justice court the deadline is ten days, not thirty.]

The time deadlines for an appeal can get complicated. If no motion for new trial has been filed, the notice of appeal must be filed within 30 days after the date of judgment. If a motion for new trial was filed within 30 days, and the court overrules the motion or the motion is overruled by operation of law [on the 75th day after the date of judgment (not 75 days after the 30 days)], the notice of appeal must be filed not later than the 90th day after the date of judgment. [Further note that the deadlines are different in justice court.]

Art. 22.16. Remittitur after forfeiture

(a) After forfeiture of a bond and before entry of a final judgment, the court shall, on written motion, remit to the surety the amount of the bond, after deducting the costs of court and any reasonable costs to the county for the return of the principal, and the interest accrued on the bond amount as provided by Subsection (c) if the principal is released on new bail in the case or the case for which bond was given is dismissed.

(b) For other good cause shown and before the entry of a final judgment against the bond, the court in its discretion may remit to the surety all or part of the amount of the bond after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal, and the interest accrued on the bond amount as provided by Subsection (c).

(c) For the purposes of this article, interest accrues on the bond amount from the

date of forfeiture in the same manner and at the same rate as provided for the accrual of prejudgment interest in civil cases.

Notes:

The Court of Criminal Appeals unanimously found Art. 22.16(a)(1) to be constitutional. Safety National Casualty Corp. v. State, 273 S.W. 3d 157 (Tex. Crim. App. 2008).

Remittitur requires that the surety file a written motion setting out the reasons why the court should remit all or part of the bond.

For remittitur under the discretionary section (b), the surety's motion should describe the surety's efforts, time, and expense incurred in returning the defendant to custody. See, Gramercy Ins. Co. v. State, 834 S.W.2d 379 (Tex. App. - San Antonio 1992). If the surety has been unsuccessful, but has nevertheless incurred substantial expense, the court might still remit part of the bond.

Interest begins to run on the date when the judge signs the judgment nisi (not the date of the non-appearance in court). See, Dees v. State, 865 S.W.2d 461, 463 (Tex. Cr. App. 1993).

Remember that the purpose of bail is to secure the presence of the accused, not to generate revenue for the government. McConathy v. State, 528 S.W.2d 594, 596 (Tex. Cr. App. 1975).

Art. 22.17. Special bill of review

(a) Not later than two years after the date a final judgment is entered in a bond forfeiture proceeding, the surety on the bond may file with the court a special bill of review. A special bill of review may include a request, on equitable grounds, that the final judgment be reformed and that all or part of the bond amount be remitted to the surety, after deducting the costs of court, any reasonable costs to the county for the return of the principal, and the interest accrued on the bond amount from the date of forfeiture. The court in its discretion may grant or deny the bill in whole or in part.

(b) For the purposes of this article, interest accrues on the bond amount from the date of:

(1) forfeiture to the date of final judgment in the same manner and at the same rate as provided for the accrual of prejudgment interest in civil cases; and

(2) final judgment to the date of the order for remittitur at the same rate as provided for the accrual of postjudgment interest in civil cases.

Notes:

A bill of review is a new case that is seeking to have the court set aside its prior judgment and enter a new judgment. It must be filed within two years of the date when the final judgment of forfeiture was signed by the judge.

The surety's petition for bill of review should set out the reasons why the bill should be granted. The surety has the burden of proof with respect to the existence of equitable grounds since the surety is the party attempting to change the status quo. In McKenna v. State, 247 S.W.3d 713 (Tex. Crim. App. 2008), the court stated that the trial court may consider factors bearing upon the equity of the situation including, but not limited to the following: (1) whether the accused's failure to appear in court was willful; (2) whether the delay caused by the accused's failure to appear in court prejudiced the State or harmed the public interest; (3) whether the surety participated in the re-arrest of the accused; (4) whether the State incurred costs or suffered inconvenience in the re-arrest of the accused; (5) whether the surety received compensation for the risk of executing the bail bond; and (6) whether the surety will suffer extreme hardship in the absence of a remittitur. See also, Gramercy Ins. Co. v. State, 834 S.W.2d 379 (Tex. App. - San Antonio 1992).

Whether to grant the bill is discretionary with the court, and an appeal will be decided on the basis of whether the trial court abused its discretion. These decisions are rarely overturned.

The state has no right of appeal from an order granting a bill of review, State v. Maldonado, 936 S.W.2d 14 (Tex. App. - San Antonio 1996).

Art. 22.18. Limitation

An action by the state to forfeit a bail bond under this chapter must be brought not later than the fourth anniversary of the date the principal fails to appear in court.

Notes:

This article applies to a bond written on or after September 1, 1999. Bonds written before that date do not have a statute of limitations.

In general, limitations period are tolled (the clock stops running) once the other side files the case and promptly attempts to get service.

Unlike the interest clock (which does not start till the court signs the judgment nisi), this clock starts running on the date of the defendant's failure to appear in court.

Under the civil rules, limitations is an affirmative defense that must be specifically plead in the answer. The burden of proving the defense is upon the party asserting it (the surety). The state does not have to disprove it, and if the surety fails to present evidence in support of the defense the surety will lose on this

issue.

Closing Comments:

These statutory provisions are only the bare framework for these cases. They set the basic parameters and rules for the parties and the court. Within that framework, a great deal of discretion and maneuvering room exists. A whole series of cases exist that concern possible defenses to liability because some particular requirement was not met. In addition, of course, the parties are free to settle cases on any terms that are agreeable to them.

The overwhelming majority of these cases are settled without a trial, and most courts would prefer it remain that way. Since the over-arching purpose of bail is to make sure that defendants appear in court to resolve their cases, most settlement policies are designed to provide strong incentives for the surety to locate and return to custody any defendant who misses a court appearance.

Probably the most important asset that a surety has in attempting to settle cases with the state's attorney is the surety's reputation. Does the surety treat his clients fairly? Does the surety make sure that his clients are in court? Does the surety get his "skips" returned promptly when they fail to appear? Is the surety truthful with the state's attorney and with the court? Does the surety treat the state's attorney, the clerks and the court with courtesy and respect? If the answer to all of these questions is "Yes," the surety will probably be able to reach fair settlements.

Texas Occupations Code, Chapter 1704

(text current through the 2019 legislative session)

CHAPTER 1704. REGULATION OF BAIL BOND SURETIES

SUBCHAPTER A. GENERAL PROVISIONS

[Sections 1704.0031704.050 reserved for expansion]

SUBCHAPTER B. COUNTY BAIL BOND BOARDS

[Sections 1704.0571704.100 reserved for expansion]

SUBCHAPTER C. BOARD POWERS AND DUTIES

[Sections 1704.1091704.150 reserved for expansion]

SUBCHAPTER D. LICENSING REQUIREMENTS

[Sections 1704.2581704.300 reserved for expansion]

SUBCHAPTER G. PROHIBITED CONDUCT AND CRIMINAL PENALTIES

CHAPTER 1704. REGULATION OF BAIL BOND SURETIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1704.001. Definitions

In this chapter:

(1) "Bail bond" means a cash deposit, or similar deposit or written undertaking, or a bond or other security, given to guarantee the appearance of a defendant in a criminal case.

(2) "Bail bond surety" means a person who:

(A) executes a bail bond as a surety or cosurety for another person; or

(B) for compensation deposits cash to ensure the appearance in court of a person accused of a crime.

(3) "Board" means a county bail bond board.

(4) "Bonding business" or "bail bond business" means the solicitation, negotiation, or execution of a bail bond by a bail bond surety.

(4-a) "Final judgment" means a judgment that disposes of all issues and parties in a case.

(5) "Person" means an individual or corporation.

Sec. 1704.002. Application of Chapter

This chapter applies only in a county with a population of:

(1) 110,000 or more; or

(2) less than 110,000 in which a board is created.

SUBCHAPTER B. COUNTY BAIL BOND BOARDS

Sec. 1704.051. Mandatory Creation of Board

A board is created in each county with a population of 110,000 or more.

Sec. 1704.052. Discretionary Creation of Board

A board may be created in a county with a population of less than 110,000 if:

(1) a majority of the persons who would serve as members of the board under Section 1704.053, or who would designate the persons who would serve as members of the board, determine to create a board; and

(2) the commissioners court approves the creation of the board by a majority vote.

Note: Once created in a county of less than 110,000 a bail bond board may not be abolished. AG Op. GA-0663 (2008).

Sec. 1704.053. Board Composition

A board consists of:

(1) the sheriff or a designee from the sheriff's office who must be the sheriff's administrator or a deputy sheriff of the rank of at least sergeant;

(2) a district judge of the county having jurisdiction over criminal matters and designated by the presiding judge of the administrative judicial district or a designee of the district judge who is approved by the presiding judge;

(3) the county judge, a member of the commissioners court designated by the county judge, or a designee approved by the commissioners court;

(4) a judge of a county court or county court at law in the county having jurisdiction over criminal matters and designated by the commissioners court or a designee of the judge who is approved by the commissioners court;

(5) the district attorney or an assistant district attorney designated by the district attorney;

(6) a licensed bail bond surety or agent for a corporate surety in the county elected under Section 1704.0535, or a bail bond surety or agent for a corporate surety licensed in the county who is designated by the elected surety or agent;

(7) a justice of the peace;

(8) the district clerk or the clerk's designee;

(9) the county clerk or the clerk's designee, if the county clerk has responsibility over criminal matters;

(10) if appointed by the board, a presiding judge of a municipal court in the county;

(11) if the county's principal municipality designates a presiding judge in the municipal court system, the presiding judge or a municipal judge from the system designated by the presiding judge;

(12) the county treasurer or the treasurer's designee or, if appointed by the commissioners court in a county that does not have a county treasurer, the person designated by the county commissioners court to perform the duties of the county treasurer; and

(13) a criminal defense attorney practicing in the county and elected by other attorneys whose principal places of business are located in the county and who are not legally prohibited from representing criminal defendants or the designee of the criminal defense attorney.

Notes:

A board may not by local rule attempt to define who is an appropriate "designee" beyond what the statute itself provides. AG Op. JM-251 (1984).

A board may not authorize an alternate or substitute member by rule without express statutory authority. AG Op. JC-0428 (2001).

Because the statute is silent about how the justice of the peace representative is chosen, any reasonable method acceptable to the justices of that county, including acquiescence, is appropriate. AG Op. JC-0496 (2002)

Neither the commissioners court nor a board has authority to remove a member for non-attendance. Only the appointing authority may do so. AG Op. JC-0496 (2002)

Sec. 1704.0535. Election of Certain Bail Bond Board Members

(a) The board shall annually conduct a secret ballot election to elect the members of the board who serve as the representative of licensed bail bond sureties and the representative of the criminal defense attorneys by electing:

(1) a licensed bail bond surety or agent for a corporate surety board member; and

(2) a criminal defense attorney who is practicing in the county.

(b) Each individual licensed in the county as a bail bond surety or agent for a corporate surety is entitled to cast one vote for each license held to elect the board member who is a surety or agent for a corporate surety.

(c) Each attorney who has a principal place of business located in the county and who is not legally prohibited from representing criminal defendants in the county is entitled to cast one vote to elect the board member who is a criminal defense attorney.

(d) Each elected justice of the peace in the county who is not legally prohibited from voting in an election for the purpose is entitled to cast one vote to elect the board member who is a justice of the peace.

Sec. 1704.054. Presiding Officer

(a) A board shall initially elect one of its members as presiding officer.

(b) The presiding officer shall preside over board meetings.

(c) The presiding officer may vote on any board matter.

Sec. 1704.055. Meetings

(a) A board shall hold its initial meeting not later than the 60th day after the date the board is created.

(b) Except as provided by Subsection (c), a board shall meet:

(1) at least once a month; and

(2) at other times at the call of the presiding officer.

(c) A board in a county with a population of less than 150,000 shall meet:

(1) at least four times each year during the months of January, April, July, and October at the call of the presiding officer; and

(2) at other times at the call of the presiding officer.

Sec. 1704.056. Quorum; Majority Vote

(a) Four members of a board constitute a quorum.

(b) A board may take action only on a majority vote of the board members present.

SUBCHAPTER C. BOARD POWERS AND DUTIES

Sec. 1704.101. Administrative Authority

A board shall:

(1) exercise powers incidental or necessary to the administration of this chapter;

(2) deposit fees collected under this chapter in the general fund of the county or in a separate county fund established for this purpose;

(3) supervise and regulate each phase of the bonding business in the county;

(4) adopt and post rules necessary to implement this chapter;

(5) conduct hearings and investigations and make determinations relating to the issuance, denial, or renewal of licenses;

(6) issue licenses to qualified applicants;

(7) deny licenses to unqualified applicants;

(8) employ persons necessary to assist in board functions; and

Note: A board has no authority to impose a fee upon bonding companies to pay for the cost of employing a bail bond administrator. AG Op. GA-0735 (2009)

(9) conduct board business, including maintaining records and minutes.

Notes:

A board may not employ outside legal counsel to represent it without the agreement of the county attorney. AG Op. GA-0074 (2003).

A board's local rule delegating to the sheriff the authority to make a final determination of rearrest costs violated the separation of powers provision of the state constitution. Black v. Dallas County Bail Bond Board, 882 S.W.2d 434 (Tex. App. – Dallas 1994)

A board has no authority to adopt a posting fee per bond that is not authorized by statute. AG Op. LO90-025 (1990)

A district court has jurisdiction to enjoin a practice or rule of a bail bond board. Dallas County Bail Bond Board v. Stein, 771 S.W.2d 577 (Tex. App. – Dallas 1989); Garcia-Marroquin v. Nueces County Bail Bond Board, 1 S.W.3d 366 (Tex. App. – Corpus Christi 1999)

Sec. 1704.102. Enforcement Authority

(a) A board shall:

1) enforce this chapter in the county;

(2) conduct hearings and investigations and make determinations relating to license suspension and revocation;

(3) suspend or revoke a license for a violation of this chapter or a rule adopted by the board under this chapter; and

(4) require a record and transcription of each board proceeding.

(b) A board may:

(1) compel the appearance before the board of an applicant or license holder; and

(2) during a hearing conducted by the board, administer oaths, examine witnesses, and compel the production of pertinent records and testimony by a license holder or applicant.

Sec. 1704.103. Disbursements From County Fund

(a) Fees deposited in the general fund of a county or in a separate county fund under Section 1704.101(2) may be used only to administer and enforce this chapter, including reimbursement for:

(1) reasonable expenses incurred by the board in enforcing this chapter; and

(2) actual expenses incurred by a board member in serving on the board.

(b) For purposes of this section, serving on a board is an additional duty of a board member's office. A board member may not receive compensation for serving on a board.

Note:

Fees collected by the board must be used only for board purposes. AG Op. LO 94-068 (1994)

Sec. 1704.104. Posting of Board Rule or Action

A board shall post a rule adopted or an action taken by the board in an appropriate place in the county courthouse for the 10 days preceding the date the rule or action takes effect.

Sec. 1704.105. Licensed Bail Bond Surety List

(a) A board shall post in each court having criminal jurisdiction in the county, and shall provide to each local official responsible for the detention of prisoners in the county, a current list of each licensed bail bond surety and each licensed agent of a corporate surety in the county.

(b) A list of each licensed bail bond surety and each licensed agent of a corporate surety in a county must be displayed at each location where prisoners are examined, processed, or confined.

Sec. 1704.107. Notification of License Suspension or Revocation

A board shall immediately notify each court and each local official responsible for the detention of prisoners in the county of:

(1) the suspension or revocation of a license issued under this chapter; and

(2) the revocation of the authority of a license holder's agent.

Sec. 1704.108. Notification of Default by Corporation

A board shall promptly notify the Texas Department of Insurance if a corporation fails to pay a judgment of forfeiture as provided by Section 1704.204(a).

Sec. 1704.109. Solicitation and Advertisement

(a) A board by rule may regulate solicitations or advertisements by or on behalf of bail bond sureties to protect:

(1) the public from:

(A) harassment;

(B) fraud;

(C) misrepresentation; or

(D) threats to public safety; or

(2) the safety of law enforcement officers.

(b) A bail bond surety, an agent of a corporate surety, or an employee of the surety or agent may not make, cause to be made, or benefit from unsolicited contact:

(1) through any means, including in person, by telephone, by electronic media, or in writing, to solicit bonding business related to an individual with an outstanding arrest warrant that has not been executed, unless the bail bond surety or agent for a corporate surety has an existing bail bond on the individual; or

(2) in person or by telephone to solicit bonding business:

(A) that occurs between the hours of 9 p.m. and 9 a.m.; or

(B) within 24 hours after:

(i) the execution of an arrest warrant on the individual; or

(ii) an arrest without a warrant on the individual.

(c) This section does not apply to a solicitation or unsolicited contact related to a Class C misdemeanor.

Note: Most of subsection (b) above has been held unconstitutional by the U.S. Court of Appeals for the Fifth Circuit, see Pruett v. Harris County Bail Bond Board, 499 F.3d 403 (5th Cir. 2007). The court upheld the prohibition on late night telephone solicitation contained in subsection (b)(2)(A).

SUBCHAPTER D. LICENSING REQUIREMENTS

Sec. 1704.151. License Required

Except as provided by Section 1704.163, a person may not act as a bail bond surety or as an agent for a corporate surety in the county unless the person holds a license issued under this chapter.

Sec. 1704.152. Eligibility

(a) To be eligible for a license under this chapter, an individual, including an agent designated by a corporation in an application, must:

(1) be a resident of this state and a citizen of the United States;

(2) be at least 18 years of age;

(3) possess the financial resources required to comply with Section 1704. 160, unless the individual is acting only as agent for a corporation holding a license under this chapter; and

Notes:

Financial status of a corporate agent is not required to be considered by the board. AG Op. LO 96-019 (1996)

Financial status of a corporate agent is not a legal reason to refuse renewal of corporate license. Harris County Bail Bond Board v. Blackwood, 2 S.W.3d 31 (Tex. App. -- Houston [1st Dist.] 1999), rev'd on other grounds

(4) submit documentary evidence that, in the two years preceding the date a license application is filed, the individual:

(A) has been continuously employed by a person licensed under this chapter for at least one year and for not less than 30 hours per week, excluding annual leave, and has performed duties that encompass all phases of the bonding business; and

(B) completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an accredited institution of higher education in the state.

(b) To be eligible for a license under this chapter, a corporation must be:

(1) chartered or admitted to do business in this state; and

(2) qualified to write fidelity, guaranty, and surety bonds under the Insurance Code.

(c) Subsection (a)(4) does not apply to the issuance of an original license:

(1) in a county before the first anniversary of the date a board is created in the county; or

(2) to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree by consanguinity or is the decedent's surviving spouse.

Notes:

The eligibility exemption contained in Sec. 1704.152(c) does not exempt an applicant from any other eligibility requirements. AG Op. JC-0472 (2002).

A board has no authority to waive or alter the statutory requirements for issuance of a bail bond license. International Fidelity Insurance Company V. Wise County Bail Bond Board, 83 S.W.3d 257 (Tex.App. – Ft. Worth, 2002)

Sec. 1704.153. Ineligibility Because of Criminal Conviction

A person is not eligible for a license under this chapter if, after August 27, 1973, the person commits and is finally convicted of a misdemeanor involving moral turpitude or a felony.

Notes:

Applicant is ineligible for licensure with prior probations for a felony and for a misdemeanor involving moral turpitude. Smith v. Wise County Bail Bond Board, 995 S.W.2d 881 (Tex. App. - Ft. Worth 1999)

Any felony is a disqualification, not just those involving moral turpitude. Smith v. Wise County Bail Bond Board, 995 S.W.2d 881 (Tex. App. - Ft. Worth 1999)

A crime of moral turpitude is one involving dishonesty, fraud, deceit, misrepresentation or deliberate violence. AG Op. GA-0299 (2005).

Issuance of bad check conviction is not a crime of moral turpitude and may not bar licensing. Dallas County Bail Bond Board v. Mason, 773 S.W.2d 586 (Tex. App. - Dallas 1989)

Solicitation of bail bonds in a jail is not a crime of moral turpitude. AG Op. GA-0299 (2005).

Sec. 1704.154. Application Requirements

(a) To be licensed under this chapter, a person must apply for a license by filing a sworn application with the board.

(b) The application must:

(1) be in a form and contain the information prescribed by the board;

(2) state:

(A) the applicant's name, age, and address;

(B) if the applicant is a corporation, whether the applicant is:

(i) chartered or admitted to do business in this state; and

(ii) qualified to write fidelity, guaranty, and surety bonds under the Insurance Code;

(C) the name under which the bail bond business will be conducted, including a bail bond business that is conducted by an agent of a corporation;

Notes:

The use of an assumed name is permitted. AG Op. MW-321 (1981)

A change of assumed name does not require the application for and issuance of a new license. AG Op. LO 97-050 (1997)

A corporate agent may use the same assumed name that he uses as an individual bondsman. AG Op. LO 96-019 (1996)

Only one assumed name may be used within the county by an individual. AG Op. GA-0135 (2004); AG Op. LO 96-044 (1996); AG Op. LO 96-019 (1996); AG Op. JM-1023 (1989)

A corporation may appoint multiple agents within the county, each of which may use a distinct assumed name. AG Op. GA-0135 (2004)

(D) each place, including the street address and municipality, at which the business will be conducted; and

(E) the amount of cash or the cash value of a certificate of deposit or cashier's check that the applicant intends to deposit with the county treasurer if the applicant's application is approved or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property;

(3) if the applicant is an individual, be accompanied by a list, as required by Section 1704.155, of nonexempt real property owned by the applicant that the applicant intends to execute in trust to the board if the applicant's application is approved; and

(4) be accompanied by:

(A) the applicant's complete, sworn financial statement;

Notes:

The board by rule may prescribe the form and required information to be contained in the financial statement. Ellen v. Brazos County Bail Bond Board, 127 S.W.3d 42 (Tex. App. - Houston [14th Dist.] 2003)

(B) the applicant's declaration that the applicant will comply with this chapter and the rules adopted by the board;

(C) three letters of recommendation, each from a person who:

(i) is reputable; and

(ii) has known the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application for at least three years;

(D) a $500 filing fee;

(E) a photograph of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application;

(F) a set of fingerprints of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application taken by a law enforcement officer designated by the board;

(G) if the applicant is or has been licensed under this chapter in another county:

(i) a list of each county in which the applicant holds a license; and

(ii) a statement by the applicant, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from a bail bond executed by the applicant as a surety or as an agent for a surety; and

(H) if the applicant is a corporation, a statement by the designated agent, as of the date of the application, of any final judgments that have been unpaid for

more than 30 days and that arose directly or indirectly from any bond executed by the agent as a surety or as an agent for a surety.

(c) A letter of recommendation submitted under Subsection (b)(4)(C) must:

(1) state that the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application has a reputation for honesty, truthfulness, fair dealing, and competency; and

(2) recommend that the board issue the license.

(d) Until payment of the final judgment, an unpaid final judgment disclosed under Subsection (b)(4)(G)(ii) or (b)(4)(H) bars licensure for the applicant unless the applicant has deposited with the court cash or a supersedeas bond in the amount of the final judgment pending:

(1) a ruling on a timely filed motion for new trial; or

(2) an appeal.

(e) A corporation must file a separate corporate application for each agent the corporation designates in the county.

Notes:

Each corporate surety agent must be separately licensed. AG Op. MW-507 (1982)

A corporate surety agent is not required to be licensed separately from the corporation. AG Op. GA-0165 (2004)

A corporate surety agent may also hold a license as an individual surety. AG Op. LO 96-019 (1996)

The only type of corporation that can be licensed as a bail bond surety is an insurance company that holds a certificate of authority from the Department of Insurance. Freedom, Inc. v. State, 569 S.W.2d 48 (Tex. Civ. App. – Austin 1978); AG Op. MW-321 (1981)

A corporation may hold multiple licenses within a county. AG Op. DM-224 (1993)

A board may not substitute the name of one corporate surety agent for another agent already licensed. The new agent must be apply for and be granted a separate license. AG Op. JM-471 (1986)

Sec. 1704.155. Real Property List

A list of nonexempt real property required under Section 1704.154(b)(3) must, for each parcel listed, include:

(1) a legal description of the property that would be sufficient to convey the property by general warranty deed;

(2) a current statement from each taxing unit authorized to impose taxes on the property showing that there is no outstanding tax lien against the property;

(3) at the option of the applicant, either the property's:

(A) net value according to a current appraisal made by a real estate appraiser who is a member in good standing of a nationally recognized professional

appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or

(B) value according to a statement from the county from the county's most recent certified tax appraisal roll;

(4) a statement by the applicant that, while the property remains in trust, the applicant:

(A) agrees to pay the taxes on the property;

(B) will not further encumber the property unless the applicant notifies the board of the applicant's intent to encumber the property and the board permits the encumbrance; and

(C) agrees to maintain insurance on any improvements on the property against damage or destruction in the full amount of the value claimed for the improvements;

(5) a statement of whether the applicant is married; and

(6) if the applicant is married, a sworn statement from the applicant's spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property.

Notes:

The board has no authority to obtain its own appraisal of property. Walstad v. Dallas County Bail Bond Board, 882 S.W.2d 434 (Tex. App. – Dallas 1994)

The board may not require real estate to be located within that county. AG Op. DM-264 (1993)

The board may not refuse to accept real estate as collateral. AG Op. DM-108 (1992)

The board may not demand that a licensee provide to it a title policy and title opinion concerning real estate offered as collateral. AG Op. LO 97-102 (1997)

Sec. 1704.156. Reappraisal of Real Property

(a) An appraisal district may not reappraise real property solely because the property owner is a license holder or an applicant for a license under this chapter.

(b) An appraisal district is not prohibited from reappraising real property in connection with the appraisal of real property in the same general area or if the reappraisal is requested by the board, a license holder, or an applicant for a license.

Sec. 1704.157. Preliminary Determinations

Before a hearing on an application, a board or a board's authorized representative shall determine whether the applicant:

(1) possesses the financial resources to comply with Section 1704.160; and

(2) satisfies the other requirements of this chapter.

Sec. 1704.158. Hearing on Application

(a) After making the determinations required by Section 1704.157, a board shall conduct a hearing on the application.

(b) During the hearing:

(1) the board may submit to the applicant or the applicant's agent any questions relevant to the board's decision on the application; and

(2) the applicant may present oral and documentary evidence.

Sec. 1704.159. Decision on Application; Board Order

(a) After the hearing under Section 1704.158, the board shall enter an order conditionally approving the application unless the board determines that a ground exists to deny the application. If the board determines that a ground exists to deny the application, the board shall enter an order denying the application.

(b) An order issued under Subsection (a) conditionally approving an application becomes final on the date the applicant complies with the security requirements of Section 1704.160.

(c) A board shall give written notice to an applicant of the board's decision on the application.

Notes:

Reasons for refusal of a license are the same as the reasons for suspension or revocation. Harris County Bail Bond Board v. Burns, 881 S.W.2d 61 (Tex. App. -- Houston [14th Dist.] 1994)

Refusal of a license because of unpaid final judgments is permitted. Ellen v. Brazos County Bail Bond Board, 127 S.W.3d 42 (Tex. App. - Houston [14th Dist.] 2003; Harris County Bail Bond Board v. Burns, 881 S.W.2d 61 (Tex. App. -- Houston [14th Dist.] 1994)

***A board may consider an applicant's prior conduct as a bondsman, and may consider prior violations of the Act in deciding whether to license the applicant. Austin v. Harris County Bail Bond Board, 756 S.W.2d 65 (Tex. App. – [1st Dist.] 1988); Burns v. Harris County Bail Bond Board, 971 S.W.2d 102* (Tex.App.-Houston [14th Dist.] 1998)**

A board's authority is only to grant or deny a license. It has no authority to grant a temporary permit. AG Op. GA-0575 (2007)

Sec. 1704.160. Security Requirements

(a) On receipt of notice under Section 1704.159 that an application has been conditionally approved, the applicant, not later than the 90th day after the date of receipt of the notice, must:

(1) if the applicant is an individual:

(A) subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E); or

(B) subject to Subsections (c)-(f), execute in trust to the board each deed to the property listed on the application under Section 1704.154(b)(3); or

(2) if the applicant is a corporation, subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E).

(b) A deposit made under Subsection (a)(1)(A) or (a)(2) may not be less than $50,000. A corporation must make a separate deposit for each license granted to it in a county. A deposit made to a county with a population of less than 250,000 shall be placed in a fund known as a bail security fund.

(c) At the option of the applicant, the property executed in trust under Subsection (a)(1)(B) must be valued in the amount indicated by:

(1) an appraisal by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or

(2) the county's most recent certified tax appraisal roll.

Notes:

The board has no authority to obtain its own appraisal of property. Walstad v. Dallas County Bail Bond Board, 882 S.W.2d 434 (Tex. App. – Dallas 1994)

The board may not require real estate to be located within that county. AG Op. DM-264 (1993)

The board may not refuse to accept real estate as collateral. AG Op. DM-108 (1992)

The board may not demand that a licensee provide to it a title policy and title opinion concerning real estate offered as collateral. AG Op. LO 97-102 (1997)

(d) The total value of the property executed in trust under Subsection (a)(1)(B) may not be less than $50,000.

(e) A trust created under Subsection (a)(1)(B) is subject to the condition that the property executed in trust may, after notice is provided and under the conditions required by the Code of Criminal Procedure, be sold to satisfy a final judgment on a forfeiture on a bail bond executed by the applicant.

(f) If an applicant is married, the applicant's spouse must execute each deed of trust under Subsection (a)(1)(B) that involves community property.

(g) A board shall file each deed of trust in the records of each county in which the property is located. The applicant shall pay the filing fee.

(h) The certificate of authority to do business in this state issued under Article 8.20, Insurance Code, to an applicant that is a corporation is conclusive evidence of:

(1) the sufficiency of the applicant's security; and

(2) the applicant's solvency and credits.

Note:

The solvency of a corporation holding a valid certificate of authority may not be questioned by the sheriff or the board. Klevenhagen v. International Fidelity Ins. Co., 861 S.W.2d 13 (Tex. App. -- Houston [1st Dist.] 1993, no writ)

(i) A license holder must maintain the amount of security required by this section during the time the person holds the license.

Notes:

A board may not impose a minimum collateral deposit in excess of the statutory minimum. Texas Fire & Casualty Co. v. Harris County Bail Bond Board, 684 S.W.2d 177 (Tex. App. -- Houston [14th Dist.] 1984, writ ref'd n.r.e.); Bexar County Bail Bond Board v. Deckard, 604 S.W.2d 214 (Tex. Civ. App. -- San Antonio 1980)

Splitting of minimum amount of security between cash and real estate is prohibited. AG Op. JM-875 (1988); AG Op. DM-108 (1992)

Sec. 1704.161. License Form

(a) Each license issued under this chapter must show on its face the license expiration date and the license number.

(b) The same license number must appear on each subsequent renewal license.

Sec. 1704.162. License Expiration and Renewal

(a) A license issued or renewed under this chapter expires on the second anniversary after the date the license is issued or is to expire, as appropriate, if the license:

(1) has been issued for less than eight consecutive years; or

(2) has been suspended.

(b) To renew a license, a license holder must file with the board an application for renewal not later than the 31st day before the license expiration date.

(c) An application for renewal must comply with the requirements for an original license application under Section 1704.154, including the $500 filing fee requirement.

(d) A board shall approve an application for renewal if:

(1) the applicant's current license is not suspended or revoked;

(2) the application complies with the requirements of this chapter; and

(3) the board does not determine that a ground exists to deny the application.

(e) A person who applies to renew a license that has been held by the person for at least eight consecutive years without having been suspended or revoked under this chapter and who complies with the requirements of this chapter may renew the license for a period of 36 months from the date of expiration if the board:

(1) knows of no legal reason why the license should not be renewed; and

(2) determines that the applicant has submitted an annual financial report to each county bail bond board before the anniversary date of the issuance of the applicant's license.

(f) A license renewed under Subsection (e) may be renewed subsequently each 36 months in a similar manner.

(g) The board may disapprove an application only by entering an order.

(h) Notwithstanding the expiration date of a license issued under this chapter, if a board to which Section 1704.055(c) applies tables a license holder's application for renewal or otherwise does not take action to approve or deny the application, the applicant's current license continues in effect until the next meeting of the board.

Notes:

Reasons to refuse to renew a license are the same as the reasons for suspension or revocation. Harris County Bail Bond Board v. Burns, 881 S.W.2d 61 (Tex. App. -- Houston [14th Dist.] 1994)

Refusal of a license because of unpaid final judgments is permitted. Harris County Bail Bond Board v. Burns, 881 S.W.2d 61 (Tex. App. -- Houston [14th Dist.] 1994)

A board has no authority to temporarily extend a license. AG Op. GA-0575 (2007) [except as now provided by subsection (h) above in smaller counties which meet only quarterly]

Sec. 1704.163. Attorney Exemption

(a) Except as provided by this section, a person not licensed under this chapter may execute a bail bond or act as a surety for another person in any county in this state if the person:

(1) is licensed to practice law in this state; and

(2) at the time the bond is executed or the person acts as a surety, files a notice of appearance as counsel of record in the criminal case for which the bond was executed or surety provided or submits proof that the person has previously filed with the court in which the criminal case is pending the notice of appearance as counsel of record.

(b) A person executing a bail bond or acting as a surety under this section may not engage in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation. If the board determines that a person has violated this subsection, the board may suspend or revoke the person's authorization to post a bond under this section or may bar the person from executing a bail bond or acting as a surety under this section until the person has remedied the violation.

(c) A person executing a bail bond or acting as a surety under this section is not relieved of liability on the bond solely because the person is later replaced as attorney of record in the criminal case.

Notes:

Attorneys may advertise bail bond services that they can lawfully provide.

AG Op. JC-0008 (1999)

Attorneys are subject to licensing in order to post bail bonds for persons other than their clients. AG Op. LO 93-63 (1993)

A board has authority to regulate the bail bond activities of attorneys, and attorneys are subject to all of the same provisions and local rules as other sureties, except those sections that require a license and those that deal with the requirement of a collateral deposit and ratios. AG Op. GA-0197 (2004)

SUBCHAPTER E. BONDING BUSINESS

Sec. 1704.201. Acceptance of License Holder Bail Bonds

A sheriff shall accept or approve a bail bond executed by a license holder in the county in which the license holder is licensed if:

(1) the bond is for a county or district case;

(2) the bond is executed in accordance with this chapter and the rules adopted by the board; and

(3) a bail bond is required as a condition of release of the defendant for whom the bond is executed.

Notes:

In a bail bond board county, the sheriff must accept bonds offered by licensed bondsmen in that county for out-of-county charges. AG Op. JM-271 (1984)

In a bail bond board county, sheriff may not refuse to accept bonds offered by licensed bondsmen in that county because they have unpaid forfeiture judgments from other counties. AG Op. JC-0019 (1999)

In a bail bond board county, the sheriff is not authorized to accept bonds from bondsmen not licensed in that county. AG Op. DM-59 (1991)

A sheriff is not authorized to accept a bail bond for a person who is jailed in another state. AG Op. GA-0515 (2007)

Sec. 1704.202. Record Requirements

(a) A license holder shall maintain:

(1) a record of each bail bond executed by the license holder; and

(2) a separate set of records for each county in which the license holder is licensed.

(b) The records required to be maintained under this section must include for each bail bond executed and enforced:

(1) the style and number of the case and the court in which the bond is executed;

(2) the name of the defendant released on bond;

(3) the amount of bail set in the case;

(4) the amount and type of security held by the license holder; and

(5) a statement of:

(A) whether the security held by the license holder is:

(i) for the payment of a bail bond fee; or

(ii) to assure the principal's appearance in court; and

(B) the conditions under which the security will be returned.

(c) *Repealed by Acts 2003, 78th Leg., ch. 942, § 28.*

(d) The records required under this section shall be:

(1) made available for inspection and copying at the board's expense on demand by the board or an authorized representative of the board;

(2) maintained at the license holder's office location in the county; and

(3) maintained for not less than four years after the conclusion of the case for which the bond was given.

Sec. 1704.203. Bail Bond Limit; Additional Security

(a) Except as provided by Subsection (d), a license holder who holds a license originally issued before September 1, 1999, may not execute, and a person may not accept from the license holder, a bail bond that, in the aggregate with other bail bonds executed by the license holder in that county, results in a total amount that exceeds 10 times the value of the security deposited or executed by the license holder under Section 1704.160.

(b) A county officer or an employee designated by the board shall maintain for each license holder the total amount of the license holder's current liability on bail bonds.

Notes:

In determining the appropriate ratio, a board should include out-of-county bonds written in that county. AG Op. GA-0002

A board has no authority to raise or lower the statutory ratios set out by this section. AG Letter Op. 93-21 (1993)

(c) A license holder may not execute a bail bond if the amount of the license holder's current total liability on judgments nisi in that county equals or exceeds twice the amount of security deposited or executed by the license holder under Section 1704.160.

(d) A license holder, at any time, may increase the limits prescribed by this section by depositing or executing additional security.

(e) This section does not apply to a license holder that is a corporation.

Note:

A board may not limit the number or value of the bonds that a corporate surety may write. AG Op. DM-264 (1993); AG Op. JM-799 (1987)

(f) A bail bond surety who holds a license originally issued on or after September 1, 1999, and who:

(1) has been licensed for fewer than two years or has had a license under this chapter suspended or revoked may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus five times the value of property held in trust under Section 1704.160(a)(1)(B);

(2) has been licensed for at least two years and fewer than four years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus six times the value of property held in trust under Section 1704.160(a)(1)(B);

(3) has been licensed for at least four years and fewer than six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus eight times the value of property held in trust under Section 1704.160(a)(1)(B); or

(4) has been licensed for at least six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus 10 times the value of property held in trust under Section 1704.160(a)(1)(B).

Notes:

A board created after September 1, 1999 has no authority to "grandfather" its existing bondsmen. They are all subject to the lower limits of Subsection (f) because "license" means a license issued by a bail bond board. AG Op. GA-0058 (2003)

A board may not aggregate the years a licensee has held more than one license in order to determine the appropriate collateral ratio under subsection (f). Only the years that that license has been held are relevant. AG Op. GA-0344 (2005)

(g) If a bail bond surety is subject to Subsection (f)(1) because the person has had a license under this chapter suspended or revoked and is also subject to Subsection (f)(2), (3), or (4), the prohibition imposed by Subsection (f)(1) controls.

Sec. 1704.204. Payment of Final Judgment

(a) A person shall pay a final judgment on a forfeiture of a bail bond executed by the person not later than the 31st day after the date of the final judgment unless a timely motion for a new trial has been filed. If a timely motion for a new trial or a notice of appeal has been filed, the person shall:

(1) pay the judgment not later than the 31st day after the motion is overruled, if the motion is overruled; or

(2) deposit with the court cash or a supersedeas bond in the amount of the final judgment, if an appeal is filed.

(b) If a license holder fails to pay a final judgment as required by Subsection (a), the judgment shall be paid from the security deposited or executed by the license holder under Section 1704.160.

Sec. 1704.205. Bail Bond Settlement

Before a final judgment on a forfeiture of a bail bond:

(1) the prosecuting attorney may recommend to the court a settlement in an amount less than the amount stated in the bond; or

(2) the court may, on its own motion, approve a settlement.

Sec. 1704.206. Replacement of Security

If a final judgment on a forfeiture of a bail bond is paid from the security deposited or executed by a license holder under Section 1704.160, the license holder shall deposit or execute additional security in an amount sufficient to comply with that section.

Note:

If a judgment is paid from the collateral posted with the county, the required $50,000 minimum must continue to be maintained as either all cash or all real estate. AG Op. GA-0977 (2012)

Sec. 1704.207. Surrender of Principal; Contest

(a) A person executing a bail bond may surrender the principal for whom the bond is executed by:

(1) if the principal is represented by an attorney, notifying the principal's attorney of the person's intention to surrender the principal in a manner provided by Rule 21a, Texas Rules of Civil Procedure; and

(2) filing an affidavit with the court or magistrate before which the prosecution is pending that states:

(A) the person's intention to surrender the principal;

(B) the court and cause number of the case;

(C) the name of the defendant;

(D) the offense with which the defendant is charged;

(E) the date of the bond;

(F) the reason for the intended surrender; and

(G) that notice of the person's intention to surrender the principal has been provided as required by this subsection.

(b) If a principal is surrendered under Subsection (a) and the principal or an attorney representing the state or an accused in the case determines that a reason for the surrender was without reasonable cause, the person may contest the surrender in the court that authorized the surrender.

(c) If the court finds that a contested surrender was without reasonable cause, the court may require the person who executed the bond to refund to the principal all or part of the fees paid for execution of the bond. The court shall identify the fees paid to induce the person to execute the bond regardless of whether the fees are described as fees for execution of the bond.

Sec. 1704.208. Bond Liability

(a) A person executing a bail bond is relieved of liability on the bond on the date of disposition of the case for which the bond is executed.

(b) For purposes of this section, disposition of a case occurs on the date the case is dismissed or the principal is acquitted or convicted.

Sec. 1704.209. Bond Discharged on Appeal

(a) A bail bond shall be discharged if:

(1) the principal appeals the case for which the bond is executed; and

(2) the person who executed the bond does not agree to continue during the appeal as surety.

(b) A court may not require a person who executes a bail bond to continue as surety while the principal appeals the case for which the bond is executed unless the person agrees to continue during the appeal as surety.

(c) This section does not prohibit a principal from obtaining an appeal bond under the Code of Criminal Procedure.

(d) This section prevails over any provision contained in the bail bond.

Sec. 1704.210. Withdrawal of Security

(a) A license holder may withdraw the security or a portion of the security deposited or executed under Section 1704.160, and the security shall be returned to the license holder or the license holder's heirs or assigns, if the person requesting the withdrawal is:

(1) a license holder in good standing and the amount of the security remaining after the withdrawal is:

(A) at least the minimum amount required by Section 1704.160; and

(B) an amount sufficient to maintain the ratios required by Section 1704.203; or

(2) a former license holder who has ceased to engage in the bonding business, or a former license holder's heir or assign, and the amount of the security remaining after the withdrawal is sufficient to:

(A) pay any outstanding judgments; and

(B) secure any unexpired obligation on a bail bond executed by the former license holder.

(b) The board may adopt rules to limit the number of times in a year security may be returned to a license holder under this section.

Note:

If a bondsman withdraws excess collateral under this section, the bondsman must still maintain the required $50,000 minimum as either all cash or all real estate. AG Op. GA-0977 (2012)

Sec. 1704.211. Corporate Power of Attorney

(a) A corporation shall, before executing any bail bond, file with the county clerk of the county in which the corporation intends to execute the bond a power of attorney designating an agent of the corporation authorized to execute bail bonds on behalf of the corporation.

(b) An agent designated by a power of attorney under Subsection (a) for a corporation holding a license under this chapter must be designated by the corporation in the corporation's application for a license.

(c) An agent designated by a power of attorney under Subsection (a) is not required under this chapter to obtain a local recording agent license under Article 21.14, Insurance Code.

(d) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk and the board.

Sec. 1704.212. Effect of Default by Corporation; Notice Required

(a) A corporation may not act as a bail bond surety in a county in which the corporation is in default on five or more bail bonds.

(b) If a corporation defaults on a bail bond, the clerk of the court in which the corporation executed the bond shall deliver a written notice of the default to:

(1) the sheriff;

(2) the chief of police; or

(3) another appropriate peace officer.

(c) For purposes of this section:

(1) a corporation is considered in default on a bail bond beginning on the 11th day after the date the trial court enters a final judgment on the scire facias and ending on the date the judgment is satisfied, set aside, or superseded; and

(2) a corporation is not considered in default on a bail bond if, pending appeal, the corporation deposits cash or a supersedeas bond in the amount of the final judgment with the court in which the bond is executed.

(d) A deposit made under Subsection (c)(2) shall be applied to the payment of a final judgment in the case.

Sec. 1704.213. Office Location

(a) A license holder shall maintain an office in the county in which the license holder holds a license.

(b) Not later than the seventh day after the date a license holder opens a new office or moves an office to a new location, the license holder shall notify the board of the location of the office.

SUBCHAPTER F. ENFORCEMENT PROVISIONS

Sec. 1704.251. Investigation

(a) A board, on its own motion, may investigate an action of or a record maintained by a license holder that relates to a complaint that the license holder has violated this chapter.

(b) A board shall investigate an action of or a record maintained by a license holder if:

(1) the board receives a sworn complaint providing reasonable cause to believe that a violation of this chapter has occurred; or

(2) a court requests an investigation.

Sec. 1704.252. Discretionary License Suspension or Revocation: Grounds

After notice and hearing, a board may revoke or suspend a license if the license holder:

(1) violates this chapter or a rule adopted by the board under this chapter;

(2) fraudulently obtains a license under this chapter;

(3) makes a false statement or misrepresentation:

(A) in an application for an original or renewal license; or

(B) during a hearing conducted by the board;

(4) refuses to answer a question submitted by the board during a hearing relating to the license holder's license, conduct, or qualifications;

(5) is finally convicted under the laws of this state, another state, or the United States of an offense that:

(A) is a misdemeanor involving moral turpitude or a felony; and

(B) is committed after August 27, 1973;

(6) is found by a court to be bankrupt or is insolvent;

Note:

A sheriff in a bail bond board county has no authority to question the solvency of a licensee. Only the board may make this determination. Font v. Carr, 867 S.W.2d 873 (Tex. App. – Houston [1st Dist.] 1993)

(7) is found by a court to be mentally incompetent;

(8) fails to pay a judgment in accordance with Section 1704.204;

(9) pays commissions or fees to or divides commissions or fees with, or offers to pay commissions or fees to or divide commissions or fees with, a person or business entity not licensed under this chapter;

Note:

A bail bond surety may not collect a legal fee for an attorney. AG Op. JC-0528 (2002)

(10) solicits bonding business in a building in which prisoners are processed or confined;

Note:

"Solicitation" within the meaning of this section is not the same as advertising. This section's prohibition against solicitation in a building does not prohibit advertising that appears on a vehicle parked in a jail's parking lot. AG Op. GA-0502 (2007)

Advertising by a bail bond surety in a magazine that is intended to be distributed to pretrial detainees held in a county jail may be a form of "solicitation" within the meaning of this section. AG Op. GA-1019 (2013)

(11) recommends to a client the employment of a particular attorney or law firm in a criminal case;

Note:

A bail bond surety may not recommend even a list of attorneys to a client. AG Op. GA-0089 (2003)

(12) falsifies or fails to maintain a record required under this chapter;

(13) fails to promptly permit the board, or a representative or an agent of the board, of the county in which the license holder is licensed to inspect a record required under this chapter;

(14) acts as a bail bond surety under a suspended or expired license;

(15) fails two or more times to maintain the amount of security required by Section 1704.160; or

(16) misrepresents to an official or an employee of the official the amount for which the license holder may execute a bail bond for purposes of obtaining the release of a person on bond.

Sec. 1704.253. Mandatory License Suspension or Revocation: Grounds

(a) A board shall immediately suspend a license if the license holder fails to maintain the amount of security required by Section 1704.160. A board is not required to provide notice or a hearing before suspending a license under this subsection. A license

suspended under this subsection shall be immediately reinstated if the license holder deposits or executes the amount of security required by Section 1704.160.

(b) After notice and hearing as provided by Section 1704.254, a board shall revoke a license if:

(1) the license holder fails to pay a judgment in accordance with Section 1704.204; and

(2) the amount of security maintained by the license holder under Section 1704.160 is insufficient to pay the judgment.

Sec. 1704.2535 Failure to Pay Final Judgment by Bail Bond Surety.

(a) The board or its authorized representative shall immediately notify the sheriff if a bail bond surety fails to pay a final judgment as provided by Section 1704.204(a).

(b) After receiving notification, the sheriff may not accept any further bonds from the bail bond surety until the surety pays the judgment.

(c) The bail bond surety's privilege to post bonds is reinstated when the bail bond surety pays the judgment.

(d) A board is not required to provide notice or a hearing before making the notification required by this section.

Sec. 1704.254. Notice and Hearing

(a) Notice of a hearing to suspend or revoke a license under this chapter must:

(1) be sent by certified mail to the last known address of the license holder not later than the 11th day before the date of the hearing;

(2) state each alleged violation of this chapter; and

(3) include a copy of any written complaint on which the hearing will be based.

(b) The hearing is limited to each alleged violation stated in the notice.

(c) During the hearing, the license holder:

(1) is entitled to an opportunity to be heard; and

(2) may present and cross examine witnesses.

(d) The hearing must be recorded. A license holder may obtain a copy of the record on request and payment of the reasonable costs of transcription.

Sec. 1704.255. Appeal; Venue

(a) An applicant or a license holder may appeal an order of a board denying an application for a license or renewal of a license, or suspending or revoking a license, by filing a petition in a district court in the county not later than the 30th day after the date the person receives notice of the denial, suspension, or revocation.

(b) An appeal filed under this section is an action against the board. An applicant or a license holder may not bring the action against an individual board member.

(c) The board may not assert a reason on appeal for an action by the board that differs from the reasons specified in the board's notice of hearing under Section 1704.254.

Notes:

An applicant must submit a complete application to the trial court on appeal. Harris County Bail Bond Board v. Blackwood, 41 S.W.2d 123 (Tex. 2001)

County court does not have jurisdiction of an appeal of an action by the board. El Paso County Bail Bond Board v. McCarter, 705 S.W.2d 816 (Tex. App. -- El Paso 1986)

The license granted by the district court after an appeal runs for two years from date the prior license expired. Harris County Bail Bond Board v. Blackwood, 41 S.W.2d 123 (Tex. 2001)

Sec. 1704.256. Standard of Judicial Review

Judicial review of an appeal filed under Section 1704.255 is by trial de novo in the same manner as an appeal from a justice court to a county court.

Note:

The standard of review on appeal is a pure de novo appeal. Harris County Bail Bond Board v. Blackwood, 2 S.W.3d 31 (Tex. App. -- Houston [1st Dist.] 1999), rev'd on other grounds; Harris County Bail Bond Board v. Burns, 881 S.W.2d 61 (Tex. App. -- Houston [14th Dist.] 1994); Travis County Bail Bond Board v. Smith, 531 S.W.2d 236 (Tex. Civ. App. -- Waco 1975)

Sec. 1704.257. Effect of Board Order

(a) A board order denying an application for a license or renewal of a license, or suspending or revoking a license, becomes final on the 31st day after the date the applicant or license holder receives notice of the order unless the applicant or license holder files an appeal under Section 1704.255.

(b) A board order appealed under Section 1704.255 has full force and effect pending determination of the appeal.

Note:

The district court has authority to grant an injunction while the appeal is pending. Dallas County Bail Bond Board v. Mason, 773 S.W.2d 586 (Tex. App. B Dallas 1989); Smith v. Travis County Bail Bond Board, 559 S.W.2d 693 (Tex. Civ. App. -- Austin 1977); Travis County Bail Bond Board v. Smith, 531 S.W.2d 236 (Tex. Civ. App. -- Waco 1975)

SUBCHAPTER G. PROHIBITED CONDUCT AND CRIMINAL PENALTIES

Sec. 1704.301. Return of Security

A bail bond surety may not hold security for the payment of a bail bond fee or to assure the principal's appearance in court for more than 30 days after the date on which the owner of the security:

(1) requests return of the security in writing; and

(2) submits to the bail bond surety written evidence of the conclusion of:

(A) the payment agreement; or

(B) all of the criminal cases for which the security was given.

Sec. 1704.302. Prohibited Referrals of or Employments With Bonding Business; Offense

(a) A person in the bonding business may not directly or indirectly give, donate, lend, or contribute, or promise to give, donate, lend, or contribute, money or property to an attorney, police officer, sheriff, deputy, constable, jailer, or employee of a law enforcement agency for the referral of bonding business.

(b) A person may not accept or receive from a license holder money, property, or any other thing of value as payment for the referral of bonding business unless the records of the board show that the person is an agent or employee of the license holder.

Note:

An agreement to split fees in violation of this section is an illegal contract, and is, therefore, unenforceable. Villanueva v. Gonzalez, 123 S.W.3d 461 (Tex.App.-San Antonio 2003)

(c) A person may not accept or receive from a license holder money, property, or any other thing of value as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

Notes:

Any felony is a disqualification, not just those involving moral turpitude. Smith v. Wise County Bail Bond Board, 995 S.W.2d 881 (Tex. App. - Ft. Worth 1999)

Issuance of bad check conviction is not a crime of moral turpitude. Dallas County Bail Bond Board v. Mason, 773 S.W.2d 586 (Tex. App. - Dallas 1989)

A crime of moral turpitude is one involving dishonesty, fraud, deceit, misrepresentation or deliberate violence. AG Op. GA-0299 (2005).

Solicitation of bail bonds in a jail is not a crime of moral turpitude. AG Op. GA-0299 (2005).

A board has authority by local rule to prohibit the employment of any felon, not just those whose conviction was within the last ten years. Smith v. Johnson County Bail Bond Board, (No. 10-04-00302-CV, decided December 14, 2005)

A board does not authority by local rule to prohibit the employment of a person currently under accusation (but not yet convicted) or currently on deferred adjudication. AG Op. GA-0895 (2011).

(d) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Sec. 1704.303. Bail Bond Surety Activity; Offense

(a) A person required to be licensed under this chapter may not execute a bail bond unless the person holds a license issued under this chapter.

(b) A person may not advertise as a bail bond surety in a county unless the person holds a license issued under this chapter by a bail bond board in that county. A person does not violate this subsection if the person places an advertisement that appears in more than one county and:

(1) the advertisement clearly indicates the county or counties in which the person holds a license issued under this chapter; and

(2) any local telephone number in the advertisement is a local number only for a county in which the person holds a license issued under this chapter.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

Sec. 1704.304. Prohibited Recommendations or Solicitations; Offense

(a) A bail bond surety or an agent of a bail bond surety may not recommend or suggest to a person for whom the bail bond surety executes a bond the employment of an attorney or law firm in connection with a criminal offense.

Note:

A bail bond surety may not recommend even a list of attorneys to a client. AG Op. GA-0089 (2003)

(b) The following persons may not recommend a particular bail bond surety to another person:

(1) a police officer, sheriff, or deputy;

(2) a constable, jailer, or employee of a law enforcement agency;
(3) a judge or employee of a court;
(4) another public official; or
(5) an employee of a related agency.

Note:

The listed persons may not refer to a list of bail bond sureties other than the complete list of approved sureties in the county. AG Op. GA-0089 (2003)

(c) A bail bond surety or an agent of a bail bond surety may not solicit bonding business in a police station, jail, prison, detention facility, or other place of detainment for persons in the custody of law enforcement.

Notes:

"Solicitation" within the meaning of this section is not the same as advertising. This section's prohibition against solicitation in a building does not prohibit advertising that appears on a vehicle parked in a jail's parking lot. AG Op. GA-0502 (2007)

Advertising by a bail bond surety in a magazine that is intended to be distributed to pretrial detainees held in a county jail may be a form of "solicitation" within the meaning of this section. AG Op. GA-1019 (2013)

(d) A person may not place a device in a place of detention, confinement, or imprisonment that dispenses a bail bond in exchange for a fee.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

Sec. 1704.305. Bail Bond Receipt and Inspection; Offense

(a) A bail bond surety or an agent of a bail bond surety may not receive money or other consideration or thing of value from a person for whom the bail bond surety executes a bond unless the bail bond surety or agent issues a receipt to the person as provided by Subsection (b).

(b) The receipt must state:

(1) the name of the person who pays the money or transfers the consideration or thing of value;

(2) the amount of money paid or the estimated amount of value transferred;

(3) if the person transfers consideration or a thing of value, a brief description of the consideration or thing of value;

(4) the style and number of the case and the court in which the bond is executed; and

(5) the name of the person receiving the money, consideration, or thing of value.

GOVERNMENT CODE

TITLE 2. JUDICIAL BRANCH

SUBTITLE C. PROSECUTING ATTORNEYS

CHAPTER 41. GENERAL PROVISIONS

SUBCHAPTER D. LONGEVITY PAY FOR ASSISTANT PROSECUTORS

Sec. 41.251. DEFINITIONS.

In this subchapter:

(1) "Assistant prosecutor" means an assistant district attorney, an assistant criminal district attorney, or an assistant county attorney.

(2) "Full-time employee" means an assistant prosecutor who is normally scheduled to work at least 40 hours a week as an assistant prosecutor.

(3) "Part-time employee" means an assistant prosecutor who is not a full-time employee.

Sec. 41.252. LONGEVITY PAY.

(a) An assistant prosecutor is entitled to longevity pay if the assistant prosecutor:

(1) is a full-time employee on the last day of a state fiscal quarter;

(2) is not on leave without pay on the last day of a state fiscal quarter; and

(3) has accrued at least four years of lifetime service credit not later than the last day of the month preceding the last month of a state fiscal quarter.

(b) The district attorney, criminal district attorney, or county attorney in the county in which the assistant prosecutor is employed shall certify the eligibility of the assistant prosecutor to receive a longevity pay supplement under this subchapter.

Sec. 41.253. AMOUNT.

(a) Except as provided by Section 41.255(f), the amount of longevity pay is $20 per month for each year of lifetime service credit.

(b) The increase is effective beginning with the month following the month in which the fourth year of lifetime service credit is accrued.

(c) An assistant prosecutor may not receive as longevity pay from the county under this subchapter:

(1) more than $20 for each year of lifetime service credit, regardless of the number of positions the assistant prosecutor holds or the number of hours the assistant prosecutor works each week; or

(2) more than $5,000 annually.

Sec. 41.254. LIMITATIONS ON LAW PRACTICE.

(a) An assistant prosecutor who receives longevity pay under this subchapter may not engage in the private practice of law if, from all funds received, the assistant prosecutor receives a salary that is equal to or more than 80 percent of the salary paid by the state to a district judge.

(b) An assistant prosecutor who becomes subject to this section may complete all civil cases that are not in conflict with the interest of any of the counties of the district in which the assistant prosecutor serves and that are pending in court before the assistant prosecutor exceeds the salary cap.

Sec. 41.255. FUNDING.

(a) The county shall pay a longevity pay supplement under this subchapter to the extent the county receives funds from the comptroller as provided by Subsection (d).

(b) The county may not reduce the salary of the assistant prosecutor to offset the longevity pay supplement.

(c) If an assistant prosecutor performs services for more than one county, the counties shall apportion the longevity pay supplement according to the ratio a county's population bears to the total population of the counties in which the assistant prosecutor performs services.

(d) Not later than the 15th day after the start of each state fiscal quarter, the county shall certify to the comptroller the total amount of longevity pay supplement due to all assistant prosecutors in the county for the preceding state fiscal quarter. The comptroller shall issue a warrant to the county for the amount certified. The comptroller shall issue warrants to the counties not later than the 60th day after the first date of each state fiscal quarter.

(e) On the receipt of funds from the comptroller as provided by Subsection (d), the county shall pay longevity supplements to eligible assistant prosecutors in the next regularly scheduled salary payment or in a separate payment.

(f) A county is not required to pay longevity supplements if the county does not receive funds from the comptroller as provided by Subsection (d). If sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) the comptroller shall apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date; and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency.

Sec. 41.256. CHANGE IN STATUS.

If an assistant prosecutor ceases being a full-time employee after the first workday of a month but otherwise qualifies for longevity pay, the assistant prosecutor's compensation for that month includes full longevity pay.

Sec. 41.257. ACCRUAL OF LIFETIME SERVICE CREDIT.

(a) An assistant prosecutor accrues lifetime service credit for the period in which the assistant prosecutor serves as a full-time, part-time, or temporary assistant prosecutor.

(b) An assistant prosecutor who is on leave without pay for an entire calendar month does not accrue lifetime service credit for the month.

(c) An assistant prosecutor who simultaneously holds two or more positions that each accrue lifetime service credit accrues credit for only one of the positions.

(d) An assistant prosecutor who begins working on the first workday of a month in a position that accrues lifetime service credit is considered to have begun working on the first day of the month.

Sec. 41.258. ASSISTANT PROSECUTOR SUPPLEMENT FUND AND FAIR DEFENSE ACCOUNT.

(a) The assistant prosecutor supplement fund is created in the state treasury.

(b) A court, judge, magistrate, peace officer, or other officer taking a bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, shall require the payment of a $15 cost by each surety posting the bail bond, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond.

(c) An officer collecting a cost under this section shall deposit the cost in the county treasury in accordance with Article 103.004, Code of Criminal Procedure.

(d) An officer who collects a cost due under this section shall:

(1) keep separate records of the funds collected; and

(2) file the reports required by Article 103.005, Code of Criminal Procedure.

(e) The custodian of the county treasury shall:

(1) keep records of the amount of funds on deposit that are collected under this section; and

(2) send to the comptroller not later than the last day of the month following each calendar quarter the funds collected under this section during the preceding quarter.

(f) A surety paying a cost under Subsection (b) may apply for and is entitled to a refund of the cost not later than the 181st day after the date the state declines to prosecute an individual or the grand jury declines to indict an individual.

(g) A county may retain 10 percent of the funds collected under this section and may also retain all interest accrued on the funds if the custodian of the treasury:

(1) keeps records of the amount of funds on deposit; and

(2) remits the funds to the comptroller as prescribed by Subsection (e).

(h) Funds collected are subject to audit by the comptroller, and funds expended are subject to audit by the state auditor.

(i) The comptroller shall deposit two-thirds of the funds received under this section in the assistant prosecutor supplement fund and one-third of the funds received under this section to the fair defense account. A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided under this subsection.

(j) The comptroller shall pay supplements from the assistant prosecutor supplement fund as provided by this subchapter. At the end of each fiscal year, any unexpended balance in the fund in excess of $1.5 million may be transferred to the general revenue fund.

SEC. 117.055. County Expenses Paid From Fees

(a) Except as provided by Subsection (a-1), to [~~To~~] compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed $50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

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

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

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

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

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

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

(b) A fee collected under this section shall be deposited in the general fund of the county.

Effective date: The changes in this section are effective 12-2-21.

AN ACT

relating to the procedures applicable to the revocation of a person's release on parole or to mandatory supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 508.254, Government Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), pending [~~Pending~~] a hearing on a charge of parole violation, ineligible release, or violation of a condition of mandatory supervision, a person returned to custody shall remain confined.

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

(1) the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;

(2) the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29, Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) The provisions of Chapters 17 and 22, Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

SECTION 2. Section 508.281(c), Government Code, is amended to read as follows:

(c) If a [~~hearing before a~~] designated agent of the board determines that [~~is held under this section for~~] a releasee who appears in compliance with a summons[~~, the sheriff of the county in which the releasee is required to appear shall provide the designated agent with a place at the county jail to hold the hearing. Immediately on conclusion of a hearing in which the designated agent determines that a releasee~~] has violated a condition of release, the agent shall notify the board. After the board or a parole panel makes a final determination regarding the violation, the division may issue a warrant [~~may be issued~~] requiring the releasee to be held in a [~~the~~] county jail pending[~~:~~

[~~(1) the action of a parole panel on any recommendations made by the designated agent; and~~

[~~(2) if subsequently ordered by the parole panel,~~] the return of the releasee to the institution from which the releasee was released.

SECTION 3. The change in law made by this Act in amending Section 508.254, Government Code, applies only to a person who on or after the effective date of this Act is charged with a violation of the person's release on parole or mandatory supervision. A person who before the effective date of this Act was charged with a violation of release is governed by the law in effect when the violation was charged, and the former law is continued in effect for that purpose.

SECTION 4. The change in law made by this Act in amending Section 508.281(c), Government Code, applies only to a determination made by a designated agent of the Board of Pardons and Paroles on or after the effective date of this Act. A determination made before the effective date of this Act is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2015.

Miscellaneous Statutes

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CODE OF CRIMINAL PROCEDURE
(Selected Provisions)

Art. 2.195. REPORT OF WARRANT OR CAPIAS INFORMATION

Not later than the 30th day after the date the court clerk issues the warrant or capias, the sheriff:

(1) shall report to the national crime information center each warrant or capias issued for a defendant charged with a felony who fails to appear in court when summoned; and

(2) may report to the national crime information center each warrant or capias issued for a defendant charged with a misdemeanor other than a Class C misdemeanor who fails to appear in court when summoned.

Note:

The statute that amended this section in 2011 (HB 2472) further provides that the duty to report warrants issued before its effective date (Sept. 1, 2011) are still controlled by prior law.

Art. 23.05. CAPIAS AFTER SURRENDER OR FORFEITURE

(a) If a forfeiture of bail is declared by a court or a surety surrenders a defendant under Article 17.19, a capias shall be immediately issued for the arrest of the defendant, and when arrested, in its discretion, the court may require the defendant, in order to be released from custody, to deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the new bond as set by the court, in lieu of a surety bond, unless a forfeiture is taken and set aside under the third subdivision of Article 22.13, in which case the defendant and the defendant's sureties shall remain bound under the same bail.

(b) A capias issued under this article may be executed by a peace officer or by a private investigator licensed under Chapter 1702, Occupations Code.

(c) A capias under this article must be issued not later than the 10th business day after the date of the court's issuance of the order of forfeiture or order permitting surrender of the bond.

(d) The sheriff of each county shall enter a capias issued under this article into a local warrant system not later than the 10th business day after the date of issuance of the capias by the clerk of court.

ART. 66.102. INFORMATION CONTAINED IN COMPUTERIZED CRIMINAL HISTORY SYSTEM [TCIC]

(a) In this article:

(1) "Appeal" means the review of a decision of a lower court by a superior court other than by collateral attack.

(2) "Rejected case" means:

(A) a charge that, after the arrest of the offender, the prosecutor declines to include in an information or present to a grand jury; or

(B) an information or indictment that, after the arrest of the offender, the prosecutor refuses to prosecute.

(b) Information in the computerized criminal history system relating to an offender must include the offender's:

(1) name, including other names by which the offender is known;

(2) date of birth;

(3) physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos; and

(4) state identification number.

c), Code of Criminal Procedure, is amended to read as follows:

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

(1) the offender's name;

(2) the offender's state identification number;

(3) the arresting law enforcement agency;

(4) the arrest charge, by offense code and incident number;

(5) whether the arrest charge is a misdemeanor or felony;

(6) the date of the arrest;

(7) <u>for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court;</u>

<u>(8)</u> the exact disposition of the case by a law enforcement agency following the arrest; and

<u>(9)</u> [~~(8)~~] the date of disposition of the case by the law enforcement agency.

Effective date: The changes in this article take effect 1-1-22

Sec. 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION.

(a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter or Subchapter E-1, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

(3) the person who is the subject of the criminal history record information;

(4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information;

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information;

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(7) a county or district clerk's office; and

(8) the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4), (5), or (6) only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7) only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(7) may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(7) does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(8) only to the extent necessary for the office of court administration to perform a duty imposed by law, including the development and maintenance of the public safety report system as required by Article 17.021, Code of Criminal Procedure, or to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(8):

(1) in a public safety report prepared under Article 17.022, Code of Criminal Procedure; or

(2) in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

GOVERNMENT CODE PROVISIONS RELATING TO NEW RESPONSIBILITIES FOR THE OFFICE OF COURT ADMINISTRATION

SEC 27.005. EDUCATIONAL REQUIREMENTS [for Justices of the Peace]

(a) For purposes of removal under Chapter 87, Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:

(1) within one year after the date the justice is first elected:

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

(B) the course described by Article 17.024(a)(1), Code of Criminal Procedure;

(2) each following year, a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters; and

(3) each following state fiscal biennium, the course described by Article 17.024(a)(2), Code of Criminal Procedure.

(b) The courses may be completed in an accredited state-supported school of higher education.

(c) A course described by Subsection (a)(1)(A) may include a course described by Subsection (a)(1)(B).

Effective date: The changes in this section are effective 1-1-22

SEC. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION

(a) As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System under Section 71.035, the clerk of each court setting bail in criminal cases shall report:

(1) the number of defendants for whom bail was set after arrest, including:

(A) the number for each category of offense;

(B) the number of personal bonds; and

(C) the number of surety or cash bonds;

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

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

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

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

(c) Not later than December 1 of each year, the office shall submit a report containing the data collected under this section during the preceding state fiscal year to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

Effective date: This section is effective 1-1-22

SEC. 72.038. BAIL FORM

(a) The office shall promulgate a form to be completed by a magistrate, judge, sheriff, peace officer, or jailer who sets bail under Chapter 17, Code of Criminal Procedure, for a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense. The office shall incorporate the completed forms into the public safety report system developed under Article 17.021, Code of Criminal Procedure.

(b) The form must:

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

(2) state the name and the office or position of the person setting bail;

(3) require the person setting bail to:

(A) identify the bail type, the amount of the bail, and any conditions of bail;

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

(C) certify that the person considered the information provided by the public safety report system; and

(4) be electronically signed by the person setting the bail.

(c) The person setting bail, an employee of the court that set the defendant's bail, or an employee of the county in which the defendant's bail was set must, on completion of the form required under this section, promptly but not later than 72 hours after the time the defendant's bail is set provide the form electronically to the office through the public safety report system.

(d) The office shall publish the information from each form submitted under this

section in a database that is publicly accessible on the office's Internet website. Any identifying information or sensitive data, as defined by Rule 21c, Texas Rules of Civil Procedure, regarding the victim of an offense and any person's address or contact information shall be redacted and may not be published under this subsection.

Effective date: The Office of Court Administration is required to produce this form by 4-1-22. If it is able to produce it earlier, it is required to inform the counties that it is ready.

CODE OF CRIMINAL PROCEDURE

Art. 32.01. DEFENDANT IN CUSTODY AND NO INDICTMENT PRESENTED.

(a) When a defendant has been detained in custody or held to bail for the defendant's appearance to answer any criminal accusation, the prosecution, unless otherwise ordered by the court, for good cause shown, supported by affidavit, shall be dismissed and the bail discharged, if indictment or information be not presented against the defendant on or before the last day of the next term of the court which is held after the defendant's commitment or admission to bail or on or before the 180th day after the date of commitment or admission to bail, whichever date is later.

(b) A surety may file a motion under Subsection (a) for the purpose of discharging the defendant's bail only.

Notes:

This statute is very similar to the exoneration defense contained in Code of Criminal Procedure, Art. 22.13(4). However, it differs slightly and it is a means by which the surety can "get off" a bond before forfeiture.

The change in law underlined above takes effect September 1, 2015. It clarifies that a surety has the right to file a motion for discharge under this section.

GOVERNMENT CODE, CHAPTER 24. DISTRICT COURTS
(Selected Provisions)

Sec. 24.012. TERMS AND SESSIONS OF COURT.

(a) Except as provided by Subsections (a-1) and (a-2) and Section 24.0125, notwithstanding any other law, each district court holds in each county in the judicial district terms that commence on the first Mondays in January and July of each year. To the extent of a conflict between this subsection and a specific provision relating to a particular judicial district, this section controls.

(a-1) The term of the 47th District Court in Armstrong County begins on the first Monday in January.

(a-2) In Harris County each district court holds terms that commence on the first Mondays in February, May, August, and November of each year.

(b) Except as otherwise provided by this chapter, the terms of each district, family district, and criminal district court are continuous. Each term begins on a day fixed by law and continues until the day fixed by law for the beginning of the next succeeding term.

(c) The commencement of a term of court is not affected by the fact that the first day of the term falls on a legal holiday or the judge is absent from the county on the first day of the term.

(d) A district judge may hold as many sessions of court in a county as he considers proper and expedient for the dispatch of business and may adopt rules for that purpose as authorized by the statutes of this state and the Texas Rules of Civil Procedure.

(e) A district judge may hear a nonjury matter relating to a civil or criminal case at a correctional facility in the county in which the case is filed or prosecuted if a party to the case or the criminal defendant is confined in the correctional facility. For purposes of this subsection, "correctional facility" has the meaning assigned by Section 1.07, Penal Code.

Sec. 24.0125. TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS.

Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a district court from holding its judicial district terms in accordance with Section 24.012, the presiding judge of the administrative judicial region, with the approval of the judge of the affected district court, may designate the terms and sessions of cour

GOVERNMENT CODE, CHAPTER 25. STATUTORY COUNTY COURTS

(Selected Provisions)

Sec. 25.0016. TERMS OF COURT; TERMS AND SESSIONS OF COURT FOLLOWING CERTAIN DISASTERS.

(a) The commissioners court, by order, shall set at least two terms a year for the statutory county court.

(b) Notwithstanding any other law, if a disaster, as defined by Section 418.004, precludes a statutory count court from holding its terms in accordance with the order of the commissioners court, the presiding judge of the administrative judicial region, with the approval of the judge of the affected statutory court court, may designate the terms and sessions of court.

PENAL CODE
(Selected Provisions)

Sec. 38.10. BAIL JUMPING AND FAILURE TO APPEAR.
(a) A person lawfully released from custody, with or without bail, on condition that he subsequently appear commits an offense if he intentionally or knowingly fails to appear in accordance with the terms of his release.
(b) It is a defense to prosecution under this section that the appearance was incident to community supervision, parole, or an intermittent sentence.
(c) It is a defense to prosecution under this section that the actor had a reasonable excuse for his failure to appear in accordance with the terms of his release.
(d) Except as provided in Subsections (e) and (f), an offense under this section is a Class A misdemeanor.
(e) An offense under this section is a Class C misdemeanor if the offense for which the actor's appearance was required is punishable by fine only.
(f) An offense under this section is a felony of the third degree if the offense for which the actor's appearance was required is classified as a felony.

CODE OF CRIMINAL PROCEDURE
CHAPTER 51. FUGITIVES FROM JUSTICE

Art. 51.01. DELIVERED UP. A person in any other State of the United States charged with treason or any felony who shall flee from justice and be found in this State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

Art. 51.02. TO AID IN ARREST. All peace officers of the State shall give aid in the arrest and detention of a fugitive from any other State that he may be held subject to a requisition by the Governor of the State from which he fled.

Art. 51.03. MAGISTRATE'S WARRANT. When a complaint is made to a magistrate that any person within his jurisdiction is a fugitive from justice from another State, he shall issue a warrant of arrest directing a peace officer to apprehend and bring the accused before him.

Art. 51.04. COMPLAINT. The complaint shall be sufficient if it recites:
1. The name of the person accused;
2. The State from which he has fled;
3. The offense committed by the accused;
4. That he has fled to this State from the State where the offense was committed; and
5. That the act alleged to have been committed by the accused is a violation of the penal law of the State from which he fled.

Art. 51.05. BAIL OR COMMITMENT. When the accused is brought before the magistrate, he shall hear proof, and if satisfied that the accused is charged in another State with the offense named in the complaint, he shall require of him bail with sufficient security, in such amount as the magistrate deems reasonable, to appear before such magistrate at a specified time. In default of such bail, he may commit the defendant to jail to await a requisition from the Governor of the State from which he fled. A properly certified transcript of an indictment against the accused is sufficient to show that he is charged with the crime alleged. One arrested under the provisions of this title shall not be committed or held to bail for a longer time than ninety days.

Art. 51.06. NOTICE OF ARREST. The magistrate who held or committed such fugitive shall immediately notify the Secretary of State and the district or county attorney of his county of such fact and the date thereof, stating the name of such fugitive, the State from which he fled, and the crime with which he is charged; and such officers so notified shall in turn notify the Governor of the proper State

Art. 51.07. DISCHARGE. A fugitive not arrested under a warrant from the Governor of this State before the expiration of ninety days from the day of his commitment or the date of the bail shall be discharged.

Art. 51.08. SECOND ARREST. A person who has once been arrested under the provisions of this title and discharged under the provisions of the preceding Article or by habeas corpus shall not be again arrested upon a charge of the same offense, except by a warrant from the Governor of this State.

Art. 51.09. GOVERNOR MAY DEMAND FUGITIVE. When the Governor deems it proper to demand a person who has committed an offense in this State and has fled to another State, he may commission any suitable person to take such requisition. The accused, if brought back to the State, shall be delivered up to the sheriff of the county in which it is alleged he has committed the offense.

Art. 51.10. PAY OF AGENT; TRAVELING EXPENSES.

Sec. 1. The officer or person so commissioned shall receive as compensation the actual and necessary traveling expenses upon requisition of the Governor to be allowed by such Governor and to be paid out of the State Treasury upon a certificate of the Governor reciting the services rendered and the allowance therefor.
Sec. 2. The commissioners court of the county where an offense is committed may in its discretion, on the request of the sheriff and the recommendation of the district attorney, pay the actual and necessary traveling expenses of the officer or person so commissioned out of any fund or funds not otherwise pledged.

Art. 51.11. REWARD. The Governor may offer a reward for the apprehension of one accused of a felony in this State who is evading arrest, by causing such offer to be published in such manner as he deems most likely to effect the arrest. The reward shall be paid out of the State Treasury to the person who becomes entitled to it upon a certificate of the Governor reciting the facts which entitle such person to receive it.

Art. 51.12. SHERIFF TO REPORT. Each sheriff upon the close of any regular term of the district or criminal district court in his county, or within thirty days thereafter, shall make out and mail to the Director of the Department of Public Safety a certified list of all persons, who, after indictment for a felony, have fled from said county. Such lists shall contain the full name of each such fugitive, the offense with which he is charged, and a description giving his age, height, weight, color and occupation, the complexion of the skin and the color of eyes and hair, and any peculiarity in person, speech, manner or gait that may serve to identify such person so far as the sheriff may be able to give them. The Director of the Department of Public Safety shall prescribe and forward to all sheriffs the necessary blanks upon which are to be made the lists herein required.

Art. 51.13. UNIFORM CRIMINAL EXTRADITION ACT.
Sec. 1. DEFINITIONS. Where appearing in this Article, the term "Governor" includes any person performing the functions of Governor by authority of the laws of this State. The term "Executive Authority" includes the Governor, and any person performing the functions of Governor in a State other than this State, and the term "State", referring to a State other than this State, includes any other State organized or unorganized of the United States of America.
Sec. 2. FUGITIVES FROM JUSTICE; DUTY OF GOVERNOR. Subject to the provisions of this Article, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the Executive Authority of any other State of the United States any person charged in that State with treason, felony, or other crime, who has fled from justice and is found in this State.

Sec. 3. FORM OF DEMAND. No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless in writing, alleging, except in cases arising under Section 6, that the accused was present in the demanding State at the time of the commission of the alleged crime, and that thereafter he fled from the State, and accompanied by a copy of an indictment found or by information supported by affidavit in the State having jurisdiction of the crime, or by a copy of an affidavit before a magistrate there, together with a copy of any warrant which issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the Executive Authority of the demanding State that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that State; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand; provided, however, that all such copies of the aforesaid instruments shall be in duplicate, one complete set of such instruments to be delivered to the defendant or to his attorney.

Sec. 4. GOVERNOR MAY INVESTIGATE CASE. When a demand shall be made upon the Governor of this State by the Executive Authority of another State for the surrender of a person so charged with crime, the Governor may call upon the Secretary of State, Attorney General or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Sec. 5. EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COMPULSION. When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another State, the Governor of this State may agree with the Executive Authority of such other State for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other State, upon condition that such person be returned to such other State at the expense of this State as soon as the prosecution in this State is terminated.

The Governor of this State may also surrender on demand of the Executive Authority of any other State any person in this State who is charged in the manner provided in Section 23 of this Act with having violated the laws of the State whose Executive Authority is making the demand, even though such person left the demanding State involuntarily.

Sec. 6. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF COMMISSION OF CRIME. The Governor of this State may also surrender, on demand of the Executive Authority of any other State, any person in this State charged in such other State in the manner provided in Section 3 with committing an act in this

State, or in a third State, intentionally resulting in a crime in the State whose Executive Authority is making the demand, and the provisions of this Article not otherwise inconsistent, shall apply to such cases, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

Sec. 7. ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Sec. 8. MANNER AND PLACE OF EXECUTION. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the State and to command the aid of all peace officers and other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Article to the duly authorized agent of the demanding State.

Sec. 9. AUTHORITY OF ARRESTING OFFICER. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Sec. 10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT OF HABEAS CORPUS. (a) No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this State, or before a justice of the peace serving a precinct that is located in a county bordering another state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of the court of record shall fix a reasonable time to be allowed the prisoner in which to apply for a writ of habeas corpus, or the justice of the peace shall direct the prisoner to a court of record for purposes of obtaining such a writ. When the writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding State.

(b) Before a justice of the peace who is not an attorney may perform a duty or function permitted by Subsection (a), the justice must take, through the Texas Justice Court Training Center, a training course that focuses on extradition law. The center shall develop a course to satisfy the requirements of this subsection.

(c) Each justice of the peace who performs a duty or function permitted by Subsection (a) shall ensure that the applicable proceeding is transcribed or videotaped and that the record of the proceeding is retained in the records of the court for at least 270 days.

Sec. 11. PENALTY FOR NON-COMPLIANCE WITH PRECEDING SECTION. Any officer who shall deliver to the agent for extradition of the demanding State a person in his custody under the Governor's warrant, in wilful disobedience to Section 10 of this Act, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than one thousand dollars or be imprisoned not more than six months, or both.

Sec. 12. CONFINEMENT IN JAIL, WHEN NECESSARY. The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding State to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in such other State, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding State may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding State after a requisition by the Executive Authority of such demanding State. Such prisoner shall not be entitled to demand a new requisition while in this State.

Sec. 13. ARREST PRIOR TO REQUISITION. Whenever any person within this State shall be charged on the oath of any credible person before any judge or magistrate of this State with the commission of any crime in any other State and except in cases arising under Section 6, with having fled from justice, or with having been convicted of a crime in that State and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this State setting forth on the affidavit of any credible person in another State that a crime has been committed in such other State and that the accused has been charged in such State with the commission of the crime, and except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that State and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this State, the judge or magistrate shall issue a warrant

directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this State, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 14. ARREST WITHOUT A WARRANT. The arrest of a person may be lawfully made also by any peace officer or private person, without a warrant upon reasonable information that the accused stands charged in the courts of a State with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Sec. 15. COMMITMENT TO AWAIT REQUISITION; BAIL. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by warrant reciting the accusation, commit him to the county jail for such time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the Executive Authority of the State having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

Sec. 16. BAIL; IN WHAT CASES; CONDITIONS OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the State in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor in this State.

Sec. 17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty days after the date of such new bond.

Sec. 18. FORFEITURE OF BAIL. If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this State. Recovery may be had on such bond in the name of the

State as in the case of other bonds given by the accused in criminal proceedings within this State.

Sec. 19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT THE TIME OF REQUISITION. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another State or hold him until he has been tried and discharged or convicted and punished in this State.

Sec. 20. GUILT OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.

Sec. 21. GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his warrant of the arrest or may issue another warrant whenever he deems proper. Each warrant issued by the Governor shall expire and be of no force and effect when not executed within one year from the date thereof.

Sec. 22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNOR. Whenever the Governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the Executive Authority of any other State, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the state seal, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed, or in which the prosecution for such offense is then pending.

Sec. 23. APPLICATION FOR ISSUANCE OF REQUISITION; BY WHOM MADE; CONTENTS. 1. When the return to this State of a person charged with crime in this State is required, the State's attorney shall present to the Governor his written motion for a requisition for the return of the person charged, in which motion shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the State in which he is believed to be, including the location of the accused therein at the time the motion is made and certifying that, in the opinion of the said State's attorney the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement, or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape

was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement, or the circumstances of the breach of the terms of his bail, probation or parole, the State in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Governor. The other copies of all papers shall be forwarded with the Governor's requisition.

Sec. 24. COSTS AND EXPENSES. In all cases of extradition, the commissioners court of the county where an offense is alleged to have been committed, or in which the prosecution is then pending may in its discretion, on request of the sheriff and the recommendation of the prosecuting attorney, pay the actual and necessary expenses of the officer or person commissioned to receive the person charged, out of any county fund or funds not otherwise pledged.

Sec. 25. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL CASES. A person brought into this State by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had reasonable opportunity to return to the State from which he was extradited.

Sec. 25a. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. (a) Any person arrested in this State charged with having committed any crime in another State or alleged to have escaped from confinement, or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge or any court of record within this State, or in the presence of a justice of the peace serving a precinct that is located in a county bordering another state, a writing which states that the arrested person consents to return to the demanding State; provided, however, that before such waiver shall be executed or subscribed by such person the judge or justice of the peace shall inform such person of his:

(1) right to the issuance and service of a warrant of extradition; and

(2) right to obtain a writ of habeas corpus as provided for in Section 10.
If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge or justice of the peace shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding State, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding State, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding State or of this State.
(b) Before a justice of the peace who is not an attorney may perform a duty or function permitted by Subsection (a), the justice must take, through the Texas Justice Court Training Center, a training course that focuses on extradition law. The center shall develop a course to satisfy the requirements of this subsection.
(c) Each justice of the peace who performs a duty or function permitted by Subsection (a) shall ensure that the applicable proceeding is transcribed or videotaped and that the record of the proceeding is retained in the records of the court for at least 270 days.
Sec. 25b. NON-WAIVER BY THIS STATE. Nothing in this Act contained shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this State, nor shall any proceedings had under this Article which result, or fail to result in, extradition to be deemed a waiver by this State of any of its rights, privileges or jurisdiction in any way whatsoever.
Sec. 26. NO RIGHT OF ASYLUM, NO IMMUNITY FROM OTHER CRIMINAL PROSECUTIONS WHILE IN THIS STATE. After a person has been brought back to this State by, or after waiver of extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.
Sec. 27. INTERPRETATION. The provisions of this Article shall be interpreted and construed as to effectuate its general purposes to make uniform the law of those States which enact it.

Art. 51.14. INTERSTATE AGREEMENT ON DETAINERS. This article may be cited as the "Interstate Agreement on Detainers Act." This agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joined therein in the form substantially as follows:
The contracting states solemnly agree that:

ARTICLE I.

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

ARTICLE II.

As used is this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

ARTICLE III.

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information, or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decision of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in Paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other

official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to Paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations, or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections, or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to Paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of Paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in Paragraph (a) hereof shall void the request.

ARTICLE IV.

(a) The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Paragraph (a) of Article V hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which

the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information, or complaint shall have duly approved, recorded, and transmitted the request; and provided further that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in Paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in Paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executing authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Paragraph (e) of Article V hereof, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V.

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information, or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in

federal custody at the place of trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) proper identification and evidence of his authority to act for the state into whose temporary custody this prisoner is to be given;

(2) a duly certified copy of the indictment, information, or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations, or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping, and returning the prisoner. The

provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI.

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII.

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII.

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX.

(a) This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(b) As used in this article, "appropriate court" means a court of record with criminal jurisdiction.
(c) All courts, departments, agencies, officers, and employees of this state and its political subdivisions are hereby directed to enforce this article and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.
(d) Any prisoner escapes from lawful custody while in another state as a result of the application of this article shall be punished as though such escape had occurred within this state.
(e) The governor is empowered to designate the officer who will serve as central administrator of and information agent for the agreement on detainers pursuant to the provisions of Article VII hereof.
(f) Copies of this article, upon its enactment, shall be transmitted to the governor of each state, the Attorney General and the Secretary of State of the United States, and the council of state governments.

Sec. 1702.3863. UNAUTHORIZED CONTRACT WITH BAIL BOND SURETY; OFFENSE.

(a) A person commits an offense if the person contracts with or is employed by a bail bond surety as defined by Chapter 1704 to secure the appearance of a person who has violated Section 38.10, Penal Code, unless the person is:

(1) a peace officer;

(2) an individual endorsed or licensed as a private investigator or the manager of a licensed investigations company; or

(3) a commissioned security officer employed by a licensed guard company.

(b) An offense under Subsection (a) is a state jail felony.

Sec. 1702.3867. EXECUTION OF CAPIAS OR ARREST WARRANT; OFFENSE.

(a) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety may not:

(1) enter a residence without the consent of the occupants;

(2) execute the capias or warrant without written authorization from the surety;

(3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or

(4) notwithstanding Section 9.51, Penal Code, use deadly force.

(b) Notwithstanding Subsection (a)(3), a private investigator may display identification that indicates that the person is acting on behalf of a bail bond surety.

(c) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety shall immediately take the person arrested to:

(1) if the arrest is made in the county in which the capias or warrant was issued:

(A) the county jail for that county if:

(i) the offense is a Class A or Class B misdemeanor or a felony; or

(ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or

(B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or

(2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.

(d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.

GOVERNMENT CODE

TITLE 2. JUDICIAL BRANCH

SUBTITLE C. PROSECUTING ATTORNEYS

CHAPTER 41. GENERAL PROVISIONS

SUBCHAPTER D. LONGEVITY PAY FOR ASSISTANT PROSECUTORS

Sec. 41.251. DEFINITIONS.

In this subchapter:

(1) "Assistant prosecutor" means an assistant district attorney, an assistant criminal district attorney, or an assistant county attorney.

(2) "Full-time employee" means an assistant prosecutor who is normally scheduled to work at least 40 hours a week as an assistant prosecutor.

(3) "Part-time employee" means an assistant prosecutor who is not a full-time employee.

Sec. 41.252. LONGEVITY PAY.

(a) An assistant prosecutor is entitled to longevity pay if the assistant prosecutor:

(1) is a full-time employee on the last day of a state fiscal quarter;

(2) is not on leave without pay on the last day of a state fiscal quarter; and

(3) has accrued at least four years of lifetime service credit not later than the last day of the month preceding the last month of a state fiscal quarter.

(b) The district attorney, criminal district attorney, or county attorney in the county in which the assistant prosecutor is employed shall certify the eligibility of the assistant prosecutor to receive a longevity pay supplement under this subchapter.

Sec. 41.253. AMOUNT.

(a) Except as provided by Section 41.255(f), the amount of longevity pay is $20 per month for each year of lifetime service credit.

(b) The increase is effective beginning with the month following the month in which the fourth year of lifetime service credit is accrued.

(c) An assistant prosecutor may not receive as longevity pay from the county under this subchapter:

(1) more than $20 for each year of lifetime service credit, regardless of the number of positions the assistant prosecutor holds or the number of hours the assistant prosecutor works each week; or

(2) more than $5,000 annually.

Sec. 41.254. LIMITATIONS ON LAW PRACTICE.

(a) An assistant prosecutor who receives longevity pay under this subchapter may not engage in the private practice of law if, from all funds received, the assistant prosecutor receives a salary that is equal to or more than 80 percent of the salary paid by the state to a district judge.

(b) An assistant prosecutor who becomes subject to this section may complete all civil cases that are not in conflict with the interest of any of the counties of the district in which the assistant prosecutor serves and that are pending in court before the assistant prosecutor exceeds the salary cap.

Sec. 41.255. FUNDING.

(a) The county shall pay a longevity pay supplement under this subchapter to the extent the county receives funds from the comptroller as provided by Subsection (d).

(b) The county may not reduce the salary of the assistant prosecutor to offset the longevity pay supplement.

(c) If an assistant prosecutor performs services for more than one county, the counties shall apportion the longevity pay supplement according to the ratio a county's population bears to the total population of the counties in which the assistant prosecutor performs services.

(d) Not later than the 15th day after the start of each state fiscal quarter, the county shall certify to the comptroller the total amount of longevity pay supplement due to all assistant prosecutors in the county for the preceding state fiscal quarter. The comptroller shall issue a warrant to the county for the amount certified. The comptroller shall issue warrants to the counties not later than the 60th day after the first date of each state fiscal quarter.

(e) On the receipt of funds from the comptroller as provided by Subsection (d), the county shall pay longevity supplements to eligible assistant prosecutors in the next regularly scheduled salary payment or in a separate payment.

(f) A county is not required to pay longevity supplements if the county does not receive funds from the comptroller as provided by Subsection (d). If sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) the comptroller shall apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date; and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency.

Sec. 41.256. CHANGE IN STATUS.

If an assistant prosecutor ceases being a full-time employee after the first workday of a month but otherwise qualifies for longevity pay, the assistant prosecutor's compensation for that month includes full longevity pay.

Sec. 41.257. ACCRUAL OF LIFETIME SERVICE CREDIT.

(a) An assistant prosecutor accrues lifetime service credit for the period in which the assistant prosecutor serves as a full-time, part-time, or temporary assistant prosecutor.

(b) An assistant prosecutor who is on leave without pay for an entire calendar month does not accrue lifetime service credit for the month.

(c) An assistant prosecutor who simultaneously holds two or more positions that each accrue lifetime service credit accrues credit for only one of the positions.

(d) An assistant prosecutor who begins working on the first workday of a month in a position that accrues lifetime service credit is considered to have begun working on the first day of the month.

Sec. 41.258. ASSISTANT PROSECUTOR SUPPLEMENT FUND AND FAIR DEFENSE ACCOUNT.

(a) The assistant prosecutor supplement fund is created in the state treasury.

(b) A court, judge, magistrate, peace officer, or other officer taking a bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, shall require the payment of a $15 cost by each surety posting the bail bond, provided the cost does not exceed $30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond.

(c) An officer collecting a cost under this section shall deposit the cost in the county treasury in accordance with Article 103.004, Code of Criminal Procedure.

(d) An officer who collects a cost due under this section shall:

(1) keep separate records of the funds collected; and

(2) file the reports required by Article 103.005, Code of Criminal Procedure.

(e) The custodian of the county treasury shall:

(1) keep records of the amount of funds on deposit that are collected under this section; and

(2) send to the comptroller not later than the last day of the month following each calendar quarter the funds collected under this section during the preceding quarter.

(f) A surety paying a cost under Subsection (b) may apply for and is entitled to a refund of the cost not later than the 181st day after the date the state declines to prosecute an individual or the grand jury declines to indict an individual.

(g) A county may retain 10 percent of the funds collected under this section and may also retain all interest accrued on the funds if the custodian of the treasury:

(1) keeps records of the amount of funds on deposit; and

(2) remits the funds to the comptroller as prescribed by Subsection (e).

(h) Funds collected are subject to audit by the comptroller, and funds expended are subject to audit by the state auditor.

(i) The comptroller shall deposit two-thirds of the funds received under this section in the assistant prosecutor supplement fund and one-third of the funds received under this section to the fair defense account. A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided under this subsection.

(j) The comptroller shall pay supplements from the assistant prosecutor supplement fund as provided by this subchapter. At the end of each fiscal year, any unexpended balance in the fund in excess of $1.5 million may be transferred to the general revenue fund.

SEC. 117.055. County Expenses Paid From Fees

(a) Except as provided by Subsection (a-1), to [~~To~~] compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed $50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

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

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

(2) the complaint, information, or indictment was dismissed without a plea of guilty or nolo contendere being entered. Possible form created that Judge signs to specify

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

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

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

(b) A fee collected under this section shall be deposited in the general fund of the county.

Effective date: The changes in this section are effective 12-2-21.

S.B. No. 790

2015 Session

AN ACT

relating to the procedures applicable to the revocation of a person's release on parole or to mandatory supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 508.254, Government Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), pending [~~Pending~~] a hearing on a charge of parole violation, ineligible release, or violation of a condition of mandatory supervision, a person returned to custody shall remain confined.

(d) A magistrate of the county in which the person is held in custody may release the person on bond pending the hearing if:

(1) the person is arrested or held in custody only on a charge that the person committed an administrative violation of release;

(2) the division, in accordance with Subsection (e), included notice on the warrant for the person's arrest that the person is eligible for release on bond; and

(3) the magistrate determines that the person is not a threat to public safety.

(e) The division shall include a notice on the warrant for the person's arrest indicating that the person is eligible for release on bond under Subsection (d) if the division determines that the person:

(1) has not been previously convicted of:

(A) an offense under Chapter 29, Penal Code;

(B) an offense under Title 5, Penal Code, punishable as a felony; or

(C) an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is not on intensive supervision or super-intensive supervision;

(3) is not an absconder; and

(4) is not a threat to public safety.

(f) The provisions of Chapters 17 and 22, Code of Criminal Procedure, apply to a person released under Subsection (d) in the same manner as those provisions apply to a person released pending an appearance before a court or magistrate, except that the release under that subsection is conditioned on the person's appearance at a hearing under this subchapter.

SECTION 2. Section 508.281(c), Government Code, is amended to read as follows:

(c) If a [~~hearing before a~~] designated agent of the board determines that [~~is held under this section for~~] a releasee who appears in compliance with a summons[~~, the sheriff of the county in which the releasee is required to appear shall provide the designated agent with a place at the county jail to hold the hearing. Immediately on conclusion of a hearing in which the designated agent determines that a releasee~~] has violated a condition of release, the agent shall notify the board. After the board or a parole panel makes a final determination regarding the violation, the division may issue a warrant [~~may be issued~~] requiring the releasee to be held in a [~~the~~] county jail pending[~~:~~

[~~(1) the action of a parole panel on any recommendations made by the designated agent; and~~

[~~(2) if subsequently ordered by the parole panel,~~] the return of the releasee to the institution from which the releasee was released.

SECTION 3. The change in law made by this Act in amending Section 508.254, Government Code, applies only to a person who on or after the effective date of this Act is charged with a violation of the person's release on parole or mandatory supervision. A person who before the effective date of this Act was charged with a violation of release is governed by the law in effect when the violation was charged, and the former law is continued in effect for that purpose.

SECTION 4. The change in law made by this Act in amending Section 508.281(c), Government Code, applies only to a determination made by a designated agent of the Board of Pardons and Paroles on or after the effective date of this Act. A determination made before the effective date of this Act is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2015.

Summary of New PR Bond Rules Effective December 2, 2021

I. **Only the trial court judge over the criminal case may grant a PR bond when the Defendant is charged with the following offenses under the Penal Code:**

A.. is charged with an offense under section 30.02 (Burglary); or

B. is charged with an offense under section 71.02 (Engaging in Organized Criminal Activity).

II. **A Defendant is not eligible for a PR bond if they are charged with the following violent offenses under the Penal Code:**

A. is charged with an offense under section 19.02 (murder);

B. is charged with an offense under section 19.03 (capital murder);

C. is charged with an offense under section 20.03 (kidnapping);

D. is charged with an offense under section 20.04 (aggravated kidnapping);

E. is charged with an offense under section 20A.02 (trafficking of persons);

F. is charged with an offense under section 20A.03 (continuous trafficking of persons);

G. is charged with an offense under section 21.02 (continuous sexual abuse of young child or children);

H. is charged with an offense under section 21.11 (indecency with a child);

I. is charged with an offense under section 22.01(a)(1) (assault) if the offense is:

J. punishable as a felony of the second degree under Subsection (b-2) of that section; or

K. punishable as a felony and involved family violence as defined by Section 71.004, Family Code;

L. is charged with an offense under section 22.011 (sexual assault);

M. is charged with an offense under section 22.02 (aggravated assault);

N. is charged with an offense under section 22.021 (aggravated sexual assault);

O. is charged with an offense under section 22.04 (injury to a child, elderly individual, or disabled individual);

P. is charged with an offense under section 25.072 (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault,
stalking, or trafficking case);

R. is charged with an offense under section 25.11 (continuous violence against the family);

S. is charged with an offense under section 29.03 (aggravated robbery);

T. is charged with an offense under section 38.14 (taking or attempting to take weapon from peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer);

U. is charged with an offense under section 43.04 (aggravated promotion of prostitution);

V. is charged with an offense under section 43.05 (compelling prostitution); or

W. is charged with an offense under section 43.25 (sexual performance by a child).

III. **A Defendant is not eligible for a PR bond if while released on bail or community supervision for an offense involving violence (set out in Section II, above), the defendant is charged with a new offense under the following provisions of the Penal Code:**

A. Section 22.01(a)(1) (assault);

B. Section 22.05 (deadly conduct);

C. Section 22.07 (terroristic threat); or

D. Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

Tex. Code of Crim. Pro. art. 17.03 as amended by SB 6 (2021).