

SYNOPSIS OF BILLS IMPACTING PRETRIAL IN TEXAS

<u>House Bills</u>	
HB 168 Raymond Amends 17.08 CCP	Bill indicates that a bond expires at the point of disposition of the case or 3 years, renewable for 1 year periods on motion of the defendant and agreement of the surety (if any).
HB 330 Guillen Amends 1704.057 Occupations Code	Bill sets the standard for dissolution of a bail bond board as a vote by majority of the Commissioners Court in counties with a population of less than 110,000
HB 674 Christian Amends 1704.057 Occupations Code	This bill addresses a specific county (based on population size and proximity to a prison—Waller County?) and sets a standard for the dissolution of a bail bond board as a vote by a majority of the board and the approval of the County Commissioners Court.
HB 770 Lozano Amends 38.10 Penal Code	The effect of this bill is to raise the punishment range for bail jumping/FTA on murder/capital murder from the current 3rd degree felony to 1st degree felony.
HB 875 Howard Adds 2.245 & 17.154 CCP	Section 1 of this bill requires the individual responsible for a custody facility to make an effort to determine the immigration status of a person arrested on an intoxication offense and report findings to, among other persons, the Judge authorized to grant bail. Section 2 of this bill requires a Judge to consider a person's immigration status as a presumption of risk of flight.
HB 976 Carter Amends 15.03 CCP	Bill allows for court appearance through two-way video (including secure internet), rather than “in-person”, but provides that the video must be recorded and kept until the earlier of the date on which the pretrial hearing ends, the 91 st day after recording in a Misd. case, or the 120 th day after recording in a Felony case. It also permits defendant’s attorney to obtain a copy of the video at reasonable cost.
HB 1029 Carter Amends 17.442 CCP	This bill requires a judge to order EM as a condition of bond for any defendant charged with Burg. Habitation or Burg. Bldg. when that defendant has been two or more times previously convicted of Burg. Habitation or Burg. Bldg. Per the bill, the EM shall be at the defendant's expense unless the court enters a record-finding of indigence. The bill does not, however, say what happens when such a finding is made other than that the defendant is not responsible for the costs.
HB 1070 Scott Amends Chapter 17 CCP by adding article 17.025, amends 17.05, 17.20, 17.21, and 17.22 CCP Companion Bill: SB 972 (Identical)	Allows a jailer, licensed under Chapter 1701, Occupations Code, to be an officer for the purpose of taking a bail bond. A jailer has the ability to take a bail bond for a defendant being held for a misdemeanor or a felony offense and then discharge the defendant from custody. No longer limiting this role to a Sheriff or a peace officer.

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<p>HB 1173 Riddle Amends 17.033 CCP</p> <p>Companion Bill: SB 685</p>	<p>This bill is currently applicable to counties of population of >3 million [Harris County], and gives law enforcement 36 hours to file either obtain a determination of probable cause after a warrantless arrest for a misdemeanor charge or release the person on bond of no more than \$5,000. Current law, regardless of county, is 24 hours.</p>
<p>HB 1382 Bohac Adds 2.252 CCP</p>	<p>Requires either the agency that arrested or the agency that is holding a person to verify their immigration status within 48 hrs. or before release on bond.</p>
<p>HB 1658 Davis of Dallas Amends 17.02 CCP</p>	<p>This bill has a “Clean up” function in one section, (changing “his” to “defendant’s”) and allows for refund of any cash bond upon order of the court and only after the defendant complies with the conditions of bond.</p>
<p>HB 1686 Fletcher Amends 17.09 CCP</p>	<p>This bill has a “Clean up” function in one section (changing “his” to “defendant’s”) and requires a judge to discharge a surety’s liability (“judge...shall discharge”) if the surety files an affidavit that the bond has been in existence for >5 years and the surety wishes to be relieved of his obligations.</p>
<p>HB 1748 Kuempel Amends 17.02 CCP</p>	<p>This bill is similar to HB 1658 in that it includes “clean-up” language, replacing “his” with “defendant’s” and also allowing for the refund of cash bond on order of the court after compliance with bond. However, the bill also indicates that the defendant may assign some or all of the cash bond posted in order to pay for “outstanding fines, court costs, or amounts of restitution” as a part of a plea agreement. The bill specifically prohibits assigning funds to pay attorney’s fees which the defendant owes.</p>
<p>HB 1800 Bonnen Amends Ch. 2 CCP, Adds Ch. 61A CCP, Amends 370.003 Local Gov’t Code.</p>	<p>This bill is similar to HB 1382 in that, in Section 1 it requires either the agency that arrested or the agency that is holding a person to verify their immigration status within 48 hrs. or before release on bond, as well as notify ICE that the person is in custody. It adds a provision to provide notice to DPS.</p> <p>This provision works in tandem with Section 2, which charges DPS with developing a database which tracks immigration status verifications for those arrested in Texas and publishes certain of the information for public consumption on the internet.</p> <p>Section 3 of the bill indicates that local government may not “adopt a rule, order ordinance, or policy (to)...not fully enforce laws related to immigration. This section could potentially impact the concept of “Sanctuary Cities” and includes financial penalties for those entities who indicate a posture of non-enforcement.</p> <p>RECOMMENDATION: Monitor, particularly due to the possibility that this bill, if passed, could work in tandem with legislation affecting bond eligibility for individuals who are not legally present in the US. See, e.g., HB 875 or HJR 86.</p>

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<p>HB 1822 Harless Amends Sec. 1704.210 Occupations Code</p>	<p>Amends the section of the Occupations Code that governs Bail bond surety to allow license holder to withdraw a portion of the security that was posted with the County. Original language appeared to limit the type of withdrawal to situations when the Bail bond surety was no longer in business and wanted to withdraw the security. The new language does not appear to limit the reasons for withdrawal, but it does require that if the Bail bond surety is to remain in business that the amount that remains in the security must be an appropriate amount. and that any outstanding judgments are paid. Also it allows the Bail Bond board to set limits as to how often security withdrawal are allowed per year.</p>
<p>HB 1823 Harless Amends 17.07 CCP</p>	<p>Amends the section of the Code of Criminal Procedures related to corporations that are allowed to act as a surety. Currently corporations must file a power of attorney with the county clerks designating their agents. The modifications allow corporations to limit the authority of an agent by specifying the limitations in the power of attorney. In addition, the bill does not allow for a person to act as a surety on a bail bond if the person has been finally convicted of a misdemeanor involving moral turpitude or a felony.</p>
<p>HB 2467 Phillips Amends 17.67 CCP</p>	<p>This bill is similar, but not identical to, SB 877 in that it addresses the relief of obligation by sureties. Under current law, allows a surety may relieve him/herself of obligation by providing the Sheriff in the jurisdiction where a matter is being prosecuted with an affidavit stating that the defendant is in custody of another jurisdiction (federal, state or local).</p> <p>This law requires the surety to notify the prosecuting attorney and also the clerk of court in the jurisdiction. However, it states that if a defendant is not a US Citizen or is not legally present in the US, they may not be relieved by affidavit, but must instead surrender the defendant personally. This law also requires a sheriff receiving such an affidavit to verify the custody status of the defendant and notify the court before which the case is pending, and allows the court to issue a warrant for arrest of the defendant.</p>
<p>HB 3029 Smith (Harris) Amends 17.441 CCP & 10.0217 Tx. Gov't Code. Companion Bill: SB 1781 (Identical)</p>	<p>This bill clarifies the offenses for which, as a condition of release, the defendant must have an ignition interlock device (IID) installed on their vehicle. Section 2 of the bill indicates that, for the same offenses, if a defendant does not own or regularly operate a vehicle, the defendant may be required, at his/her expense, to: (1) wear a remote alcohol monitoring device (trade-name: SCRAM device), or (2) use a portable breath analysis device (trade-name InHom or MEMS) by a date to be specified by the Judge. Additionally, the Court may order bond revoked if the defendant fails to comply, tampers with the device, provides samples that represent violations of bond, fails to provide samples, or fails to pay costs related to the device. In a manner similar to existing IID statutes, the bill indicates that the Court may designate an agency or service provider to monitor compliance, and that agency may collect a fee of up to \$10 to cover the costs associated with monitoring compliance.</p>

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<p>HB 3077 Gallego Amends 17.16 CCP</p> <p>Companion Bill: SB 877 (Identical)</p>	<p>Under current law, allows a surety may relieve him/herself of obligation by providing the Sheriff in the jurisdiction where a matter is being prosecuted with an affidavit stating that the defendant is in custody of another jurisdiction (federal, state or local). This law requires a sheriff receiving such an affidavit to place a detainer on that defendant, notify the court before which the case is pending, and requires the court to issue a warrant for arrest unless such a warrant has already been issued or is determined to be unnecessary.</p>
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SENATE BILLS	
<p>SB 685 Huffman Amends 17.033 CCP</p> <p>Companion Bill: HB 1173</p>	<p>This bill is currently applicable to counties of population of >3 million [Harris County], and gives law enforcement 36 hours to file either obtain a determination of probable cause after a warrantless arrest for a misdemeanor charge or release the person on bond of no more than \$5,000. Current law, regardless of county, is 24 hours.</p>
<p>SB 880 Whitmire Amends 76.011 CCP, 76.015 Tx.Gov't Code, 103.0211 Tx. Gov't Code Posted 2/27/11</p>	<p>Allows CSCD's to operate pretrial intervention programs as well as supervision programs for defendants who are free on any type of bond, including pre-trial Surety Bond, Cash Bond, and Personal Bonds, as well as bonds on post-conviction Habeas Writs, and Appeal Bonds. Allows CSCD's to supervise defendants subject to conditions of release, including interlock. Allows CSCD's to supervise defendants subject to compliance with court orders under Drug Court Programs, as well as Occupational Drivers License Programs, and any other defendants ordered by the Court to submit to supervision by the department. Requires that such pretrial supervision may last no more than 2 years, and indicates that the CSCD is also permitted to charge the defendant a fee of no less than \$25 and up to \$60 per month (current maximum is \$40) for performing this service.</p>
<p>SB 881 Whitmire Amends 22.13 (a) CCP</p>	<p>This bill allows for a surety to be absolved from liability if the death of the defendant takes place before the entry of final judgment (currently, it states that the death has to take place before forfeiture is taken). The bill also absolves a surety from liability if the defendant is deported, voluntarily or involuntarily, from the US.</p>
<p>SB 882 Whitmire Amends 17.42 CCP</p> <p>Companion Bill: SB 845 (Duplicate)</p>	<p>Requires agencies who are required to post a monthly report with the County Clerk to actually "file" this report as opposed to "post" the report. Travis County Pretrial Services currently posts this report monthly.</p>
<p>SB 909 Nichols Amends 17.16 CCP</p>	<p>Restricts the circumstances under which a surety may relieve themselves of obligation under a bond. Under current law, allows a surety may relieve him/herself of obligation so long as, prior to forfeiture, they either surrendering the person or provide the Sheriff in the jurisdiction where a matter is being prosecuted with an affidavit stating that the defendant is in custody of another jurisdiction (federal, state or local).</p> <p>Under this bill, a surety may be relieved only if, prior to failure to appear, they surrender the person (it removes the affidavit to sheriff provision). Additionally, it states that the surety is responsible for expenses that result from moving the person into custody of the prosecuting jurisdiction.</p>

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<p>SB 972 Hinojosa Amends Chapter 17 CCP by adding article 17.025, amends 17.05, 17.20, 17.21, and 17.22 CCP</p> <p>Companion Bill: HB 1070 (Identical)</p>	<p>Allows a jailer, licensed under Chapter 1701, Occupations Code, to be an officer for the purpose of taking a bail bond. A jailer has the ability to take a bail bond for a defendant being held for a misdemeanor or a felony offense and then discharge the defendant from custody. No longer limiting this role to a Sheriff or a peace officer.</p>
<p>SB 1781 Whitmire Amends 17.441 CCP & 10.0217 Tx. Gov't Code.</p> <p>Companion Bill: HB 3029 (Identical)</p>	<p>This bill clarifies the offenses for which, as a condition of release, the defendant must have an ignition interlock device (IID) installed on their vehicle. Section 2 of the bill indicates that, for the same offenses, if a defendant does not own or regularly operate a vehicle, the defendant may be required, at his/her expense, to: (1) wear a remote alcohol monitoring device (trade-name: SCRAM device), or (2) use a portable breath analysis device (trade-name InHom or MEMS) by a date to be specified by the Judge. Additionally, the Court may order bond revoked if the defendant fails to comply, tampers with the device, provides samples that represent violations of bond, fails to provide samples, or fails to pay costs related to the device. In a manner similar to existing IID statutes, the bill indicates that the Court may designate an agency or service provider to monitor compliance, and that agency may collect a fee of up to \$10 to cover the costs associated with monitoring compliance. In Travis County, the agency performing this function is Pretrial Services.</p>

<p><u>House Joint Resolutions</u></p>	
<p>HJR 86 Murphy Texas Constitution, Article I</p>	<p>This bill requires a judge to deny bail ("shall be denied") for a person, charged with a felony, who is not a US Citizen, nor legally present.</p> <p>[This constitutional amendment could work in tandem with HB 875, which requires the sheriff to make an effort to determine the immigration status of a person in custody for an intoxication offense and to report any person found not to be a US Citizen or legally present to the judge, and which requires the judge to take that immigration status into consideration as a rebuttable presumption of risk of flight.]</p>
<p>HJR 98 Burkett Texas Constitution, Article I</p>	<p>Requires a judge to deny bail after a hearing ("shall be denied release on bail") for a person arrested for committing a violent or sexual offense after having been previously convicted of a violent or sexual offense.</p>