

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — SECOND CALLED SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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SIXTH DAY

(Tuesday, August 31, 2021)

The Senate met at 2:05 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Eckhardt, Gutierrez, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

Senator Perry offered the invocation as follows:

Heavenly Father, we thank You that You're a God that loved us in spite of ourselves, that You're merciful, You're kind, You're considerate. And You loved us enough to plan our eternity with You, and I thank You for that. We recognize that we saw the sense of loss this past week or so, that we recognize the fragility of the flesh and bones that we walk this Earth with, that we are all vulnerable, and we all will have a physical death. But we know that we have an eternal life with You, if we choose to have that. We just pray that those people that lost those lives are with You. We pray for the void that was created by that loss, that senseless loss last week that only You can fill it, that You're filling it as we speak today. We ask You to be with New Orleans and Louisiana and all those that are impacted by the rains and the floods and the winds that come. And we're reminded again of just how awesome Mother Nature is and the power that she can inflict and can go through, both in constructive and destructive ways. Again, we just recognize that we are all vulnerable, vulnerable to the things that we have on this side of heaven. We thank You that You're a God that loved us enough to send Your Son, Jesus Christ, so that we could be with You. And all God's people said, amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Tuesday, August 31, 2021 - 1

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**SB 4** Lucio Sponsor: Klick  
Relating to abortion complication reporting and the regulation of drug-induced abortion procedures, providers, and facilities; creating a criminal offense.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 1** (80 Yeas, 41 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**BILL SIGNED**

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 7**.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1 ADOPTED**

Senator Hughes called from the President's table the Conference Committee Report on **SB 1**. The Conference Committee Report was filed with the Senate on Monday, August 30, 2021.

On motion of Senator Hughes, the Conference Committee Report was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

**STATEMENT REGARDING SENATE BILL 1**

Senator Zaffirini submitted the following statement regarding **SB 1**:

I rise respectfully to speak against Senate Bill 1 for the fifth—and I hope final—time. I remain befuddled about how some can see this bill as so good when some of us see it as so bad. Thirteen of us—all Democrats—tried mightily to improve it. Of 32 amendments we offered during the regular and two special sessions, only seven were accepted. I particularly am grateful to Senator Hughes for accepting four of my 13 attempts to amend the bill.

These improvements included opportunities to cure mail-in ballots with an incorrect driver's license or social security number, requiring the Secretary of State to study voter education programs for persons with disabilities, and removing the requirement that persons with disabilities submit proof of their condition to vote by mail.

His doing so proved, however, that we could have collaborated effectively, we could have compromised, and we could have reached a consensus all of us could have supported.

Much to my dismay, we began with what Democratic senators considered a horrific bill, but after multiple renditions, many now see as merely horrible—"less bad," as I have said before.

Supporters have stated repeatedly that Senate Bill 1 would make it "easier to vote and harder to cheat." Many of us respectfully disagree.

How can this bill make it easier to vote when it limits early voting hours, prohibits drive-through voting, and discourages persons from assisting voters with disabilities—options, we have evidence, that make it easier for persons of color and for persons with disabilities to vote? How can it make it easier to vote when its language facilitates—if not encourages—harassment by poll watchers and, in the process, risks intimidating voters? How can it make it easier to vote when it establishes criminal penalties for local elections officials, making staffing polling places more difficult?

The answer is, it doesn't.

If the bill doesn't make voting easier, let's consider claims that it makes it more difficult to cheat. Yes, on rare occasions there have been isolated instances of voter fraud—but, in a state as big as Texas, this number, (44 of 11.2 million votes in 2020), 0.0004 percent of votes, is miniscule.

On a related note, in 2018 I reported a case of voter fraud to the Attorney General. In fact, Senator Hughes, you may recall I reached out to you in your capacity at that time as Chair of the Senate Select Committee on Election Security and later filed curative legislation. Determined to deal swiftly and fully with this flagrant voter abuse, I submitted evidence with specific instances, specific witnesses, and specific races. Nothing came of it, however. Nothing. We were told the AG's staff "did not have the bandwidth" to deal with it.

That is why during our State Affairs hearings I repeatedly questioned the AG's representative about whether they would have the bandwidth and the funding to deal with the extensive new responsibilities assigned to them by Senate Bill 1. He said they would, but I don't understand how—unless, Senator Nelson, they came back and asked for significantly higher funding. This doesn't appear to be the case, however, for the bill's fiscal note indicates zero increased funding. Really?

I remember fondly when the Texas Senate used to be called "the most deliberative body in the country." It could be again—if we merely return to the days of collaboration, deliberation, and negotiation; if we shun the practice of settling for partisan votes; and if we embrace anew bipartisanship as our hallmark.

How I tired during our regular session of hearing the numbers after our votes, "18-13," "18-13," "18-13" and, similarly, "the amendment fails," "the amendment fails," "the amendment fails."

We can do better, members, and if we truly want to do what's best for the people of Texas—for ALL the people of Texas, including persons of color and persons with disabilities—we must pass better legislation.

For these reasons and more, I respectfully will vote "no" on the adoption to the conference committee report for Senate Bill 1.

ZAFFIRINI

### **STATEMENT REGARDING SENATE BILL 1**

Senator Menéndez submitted the following statement regarding **SB 1**:

Mr. President and members, I am strongly opposed to Senate Bill (SB) 1. This bill will have a significant negative impact on Texans by infringing on their fundamental right to vote. SB 1 specifically targets people of color, people experiencing disabilities, our election officials and everyday Texans. I urge you all to join me and vote against SB 1.

SB 1 targets our disabled and bilingual communities by significantly limiting the type of assistance a person, even a family member, can provide them when casting their ballot. This new standard form and oath for people who are assisting voters, contains new criminal penalties. As a son of immigrant parents, whose first language was not English, this type of bill directly hurts people like my family and many of my constituents.

This bill also gives partisan poll watchers greater authority in polling locations and threatens election judges with criminal charges, if they remove or obstruct poll watchers that the official perceives as disruptive or intimidating to voters. By limiting this ability of our election judges, we are allowing voter intimidation to take place without any consequences. The bill also attacks our election officials by threatening them with criminal prosecution for enacting procedures they feel are best for their local communities.

In passing this bill, the Legislature is severely limiting voting methods that are primarily used by people of color, people who are experiencing disabilities, and working class Texans. Some of these methods include the use of drive-thru voting locations and 24-hour voting. Many counties adopted extended voting times during the 2020 elections, to allow those who may be working two or three jobs to be able to make their voice heard. Members, I am referring to the teacher who works overtime for our students, the grocery worker who kept us fed during the pandemic, our doctors and physicians who work late hours to provide care to us all, and our first responders who work overnight shifts to make sure our communities are protected. This bill is a solution in search of a non-existent problem. The Texas Secretary of State, our top election official, stated that the 2020 elections were safe and secure.

This bill will have a disproportionate impact on voters of color, disabled Texans, and many of our states' marginalized communities. The Legislature should not be working to limit the fundamental right that we are all granted. Instead, we must focus on making voting more accessible for our fellow Texans by implementing policies such as universal vote by mail, countywide polling, 24-hour and drive-thru voting options, expanding voter identifications and providing necessary resources for our election officials. Our democracy only works when everyone has an opportunity to cast their ballot. To our constituents and fellow Texans who are watching this attack on democracy: Please know that your voice is your vote, your voice is your power, and it is a fundamental right that should not be infringed on. Remember, elections have consequences. Thank you Mr. President and members.

MENÉNDEZ

### STATEMENT REGARDING SENATE BILL 1

Senator Powell submitted the following statement regarding **SB 1**:

Thank you, Mr. President. Thank you, members.

I rise not to voice my concerns but the concerns I have heard from the diverse Texans in Senate District 10.

I am proud to represent a coalition district where minority voters are able to come together to elect their candidate of choice. I am not only proud, I am honored to be their chosen representative.

From the beginning of this process, the voice of the people I represent has been excluded. The predecessor to this bill, Senate Bill 7, was one that was ultimately crafted by outside lawyers, behind closed doors, without the input of representative organizations of marginalized populations such as MALDEF, ACLU, Americans with Disabilities, etc. and operated outside the bounds of our public legislative process.

Today, Senate Bill 1 seeks to continue the exclusion of input from disenfranchised segments of our population.

During SB 1's public testimony, legal experts and advocates, such as LULAC, NAACP, and MALDEF, representing the rights of minority and disabled Texans warned of the dire effects of Senate Bill 1.

Members, these are not partisan groups. These are long-standing organizations with a proven legal track record of defending the rights of all Texans.

I truly wish an impact study had been added to this bill – an amendment offered by Senator West would have done this. Without an impact study, I am gravely concerned about the voting rights of our minority voters, senior citizens, disabled Texans, and new voters.

We should be able to confidently and proudly proclaim that the laws we pass here, like Senate Bill 1, will not infringe on the rights of any Texan; but today, without this study, we cannot.

I fear the warnings from legal experts and minority advocates will soon become our reality and Texans' rights will be infringed.

In 2020, Texas ranks 50th in "ease of voting" according to a study completed by multiple universities. We are literally the hardest state in the nation in which to exercise our precious right to vote and this bill will only add confusion and fear to our democratic process.

Today, I will respectfully vote against Senate Bill 1 and continue to work to pass policies that not only uphold election integrity, which is vitally important, but also guarantee minority and disabled Texans have equal access to the franchise as well. Thank you members for your time.

POWELL

### STATEMENT REGARDING SENATE BILL 1

Senator Alvarado submitted the following statement regarding **SB 1**:

Thank you Mr. President, members, I rise to respectfully speak against the adoption of the conference committee report for SB 1.

I do not intend to speak long because I feel like I have spoken long enough on this bill. I ended my 15 hour filibuster by stating that voter suppression anywhere is a threat to democracy everywhere and that is exactly why I oppose this bill.

The Conference Committee Report for SB 1 still limits the types of accommodations available to voters with disabilities. I talked about that quite a bit that night, during my filibuster. The extra loops that people with disabilities will have to go to.

The House made training for poll watchers mandatory. If we were really doing something about making voting easier, why would we not do online voter registration? There is some form of online voter registration only when you are renewing your license. Online voter registration has been opposed by this chamber and the other chamber. If you really want to make voting easier, like every other one of our neighboring states here in the South have, then you would do online voter registration.

The conference committee report also maintains new paperwork requirements and enhanced criminal penalties for voter assistants.

Further, the conference committee report still includes needlessly burdensome wet signature requirements and ID matching provisions for mail ballots.

I read some testimony from witnesses who had problems with that wet signature requirement. One had cerebral palsy who talked about having to have someone put a pen in their hand and help them with that. This is going to impact people's lives, and I am speaking mostly about the disabled, because they can't be here today. I am their voice on this issue.

Lastly, the conference committee report requires voters with disabilities to appear in person at an elections office to cure defects in their ballots. Yet another hurdle for Texans with disabilities to overcome and will result in voter suppression.

When Government abuses its power and chips away at our liberty by making it harder to vote for people with a disability, for minorities, for our veterans overseas, it is we, the elected officials, that must stand up against government overreach at every turn.

Now I understand that elections have consequences and that every member of this body was elected to represent and speak for their constituents, and that's what I am doing at this moment. But I will respectfully remind the entire body that laws also have consequences and one day the people of Texas will grow impatient with the systematic chipping away of their democracy and they will respond in kind at the ballot box.

It is for these reasons that I respectfully oppose the adoption of this conference committee report.

Thank you members, thank you Mr. President.

ALVARADO

**SENATE BILL 15 WITH HOUSE AMENDMENTS**

Senator Taylor called **SB 15** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1**

Amend **SB 15** (house committee printing) as follows:

(1) On page 3, line 15, strike "and".

(2) On page 3, line 19, between "Subsection (d)" and the underlined period, insert the following:  
; and

(3) may not count a student for purposes of calculating the district's or school's average daily attendance if the student has 10 or more unexcused absences in a six-month period

(3) On page 5, line 8, after the underlined period, add the following:

The commissioner may waive the requirements of this subsection for courses included in the enrichment curriculum under Section 28.002.

(4) On page 5, line 15, strike "A" and substitute "Except as otherwise provided under Subsection (e)(3), a".

(5) On page 6, strike lines 1 through 9.

(6) On page 6, line 10, strike "(r)" and substitute "(q)".

(7) On page 6, between lines 17 and 18, add the following appropriately lettered subsection and reletter subsequent subsections and cross-references to those subsections accordingly:

( ) In calculating under Subsection (q) the number of students that may be enrolled in a local remote learning program, a school district or open-enrollment charter school shall count students who spent at least half of the student's instructional time during the 2021-2022 school year enrolled in virtual courses or receiving remote instruction, other than by enrollment in electronic courses offered through the state virtual school network under Chapter 30A, including students who were enrolled in virtual courses or received remote instruction during the 2021-2022 school year because the student was:

(1) medically fragile;

(2) placed in a virtual setting by an admission, review, and dismissal committee; or

(3) receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(8) On page 6, line 20, strike "Subsection (c-1)" and substitute "Subsections (c-1) and (c-2)".

(9) On page 6, strike lines 24 through 26, and substitute the following:  
at least half of the students' instructional time:

(1) in virtual courses offered under a local remote learning program under Section 29.9091; or

(2) receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are:

(A) medically fragile;

(B) placed in a virtual setting by an admission, review, and dismissal committee; or

(C) receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(c-2) Subsection (c-1) and this subsection expire September 1, 2023.

(10) On page 7, strike line 1, and substitute "adding Subsections (h-1), (m-1), and (m-2) to".

(11) On page 7, strike lines 3 through 17, and substitute the following:

(h-1) Subject to rules adopted by the commissioner under Section 48.007(b), time that a student participates in a course or program provided under Section 48.007(c) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section. This subsection expires September 1, 2023.

(m-1) Except for students enrolled in programs or courses offered under Chapter 30A or Section 48.053, a school district or open-enrollment charter school may not count for purposes of calculating the district's or school's average daily attendance a student who received virtual or remote instruction for a majority of the instructional days during the preceding school year if the student:

(1) did not achieve satisfactory performance or higher or the equivalent in the preceding school year on:

(A) each assessment instrument administered to the student under Section 39.023 or 39.025; or

(B) if the student was not administered an assessment instrument described by Paragraph (A) during the preceding school year, an assessment instrument designed to show grade-level proficiency in the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the student's grade level;

(2) had a number of unexcused absences that exceeds 10 percent of the number of instructional days in the preceding school year; or

(3) did not earn a grade of C or higher or the equivalent in each of the foundation curriculum courses taken virtually or remotely in the preceding school year.

(12) Strike page 7, line 20 through page 9, line 5.

(13) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0549 to read as follows:

Sec. 39.0549. EVALUATING VIRTUAL AND LOCAL REMOTE PROGRAMS. (a) In evaluating under Section 39.054 the performance of a school district or open-enrollment charter school that operates a full-time local remote learning program, the commissioner shall assign the program separate overall and domain performance ratings as if the program were a campus of the district or school.

For purposes of assigning performance ratings under this subsection, students who spend at least half of the students' instructional time receiving virtual or remote instruction are considered enrolled in the program, including students:

(1) enrolled in virtual courses offered under a local remote learning program under Section 29.9091; or

(2) receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are:

(A) medically fragile;

(B) placed in a virtual setting by an admission, review, and dismissal committee; or

(C) receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(b) A performance rating under this section is not subject to Section 39.054(a-3) or 39.0546.

(c) A performance rating assigned under this section may not be used for purposes of Section 39.0544 or for determining whether to impose any intervention or sanction authorized by Chapter 39A.

(d) This section expires September 1, 2023.

SECTION \_\_\_\_. Subchapter A, Chapter 48, Education Code, is amended by adding Section 48.0071 to read as follows:

Sec. 48.0071. OFF-CAMPUS COURSES OR PROGRAMS COUNTED FOR PURPOSES OF AVERAGE DAILY ATTENDANCE. (a) The commissioner may approve off-campus electronic courses, an off-campus electronic program, or an instructional program that combines in-person instruction and off-campus electronic instruction in the same manner that the commissioner approves instructional programs under Section 48.007(a).

(b) The commissioner shall adopt by rule verification and reporting procedures to report student participation in courses or programs provided under Subsection (c).

(c) A school district or open-enrollment charter school may provide one or more off-campus electronic courses, an off-campus electronic program, or an instructional program that combines in-person instruction and off-campus electronic instruction to students enrolled in the district or school who have reasonable access to in-person services at a district or school facility. Off-campus electronic instruction for a course or program provided under this subsection may be provided synchronously or asynchronously. A student enrolled in a course or program provided under this subsection shall be counted toward the district's or school's average daily attendance in the same manner as other district or school students. In adopting rules under Subsection (b), the commissioner shall provide for a method of taking attendance, once each school day, for students enrolled in a course or program provided under this subsection.

(d) A school district or open-enrollment charter school that operated during the 2020-2021 school year a full-time virtual program outside the state virtual network under Chapter 30A with at least 10 percent of the enrollment for the program including students who resided outside the geographic area served by the district or school may:

(1) continue to operate the virtual program on a full-time basis;  
(2) apply the same enrollment and transfer criteria used during the 2020-2021 school year; and

(3) offer the program to students in any grade level or combination of grade levels from kindergarten through grade 12 as long as the program includes at least one grade level for which an assessment instrument is administered under Section 39.023.

(e) This section expires September 1, 2023.

SECTION \_\_\_\_\_. A school district or open-enrollment charter school that operates a full-time local remote learning program during the 2021-2022 school year that meets the requirements of Section 29.9091, Education Code, as added by this Act, is entitled to funding in the manner prescribed by this Act regardless of whether the district or school began operating the program before, on, or after the effective date of this Act.

### Floor Amendment No. 2

Amend Amendment No. 1 by K. Bell to **SB 15** as follows:

(1) On page 1, line 8, between "absences" and "in", insert "in the program".

(2) On page 1, line 23, strike "spent" and substitute "spend".

(3) On page 1, line 24, between "year" and "enrolled", insert "or 2022-2023 school year, as applicable,".

(4) On page 1, line 27, strike "who were".

(5) On page 1, line 29, between "year" and "because", insert "or 2022-2023 school year, as applicable,".

(6) On page 3, line 16, strike "described by Paragraph (A)" and substitute "that was required to be administered to the student under Section 39.023 or 39.025".

(7) Strike page 4, line 31, through page 5, line 5, substitute "PURPOSES OF AVERAGE DAILY ATTENDANCE.", and reletter subsections of that section and cross-references to those subsections accordingly.

### Floor Amendment No. 6

Amend **SB 15** (house committee report) by striking page 4, line 26, to page 5, line 5, and substituting the following:

(k) A district or school may not directly or indirectly coerce any teacher to agree to an assignment to teach a full-time local remote learning program.

The amendments were read.

Senator Taylor moved to concur in the House amendments to **SB 15**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Eckhardt, Gutierrez, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Springer, Taylor, West, Whitmire, Zaffirini.

Nays: Schwertner, Seliger.

**SENATE BILL 6 WITH HOUSE AMENDMENTS**

Senator Huffman called **SB 6** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

## A BILL TO BE ENTITLED

## AN ACT

relating to rules for setting the amount of bail, to the release of certain defendants on a monetary bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, and to the reporting of information pertaining to bail bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Damon Allen Act.

SECTION 2. Article 1.07, Code of Criminal Procedure, is amended to read as follows:

Art. 1.07. RIGHT TO BAIL. Any person ~~[All prisoners]~~ shall be eligible for bail ~~[bailable]~~ unless denial of bail is expressly permitted by the Texas Constitution or by other law ~~[for capital offenses when the proof is evident]~~. This provision may ~~[shall]~~ not be ~~[so]~~ construed ~~[as]~~ to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.

SECTION 3. Article 15.17(a), Code of Criminal Procedure, is amended to read as follows:

(a) In each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have him taken before some magistrate of the county where the accused was arrested or, to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in any other county of this state. The arrested person may be taken before the magistrate in person or the image of the arrested person may be presented to the magistrate by means of a videoconference. The magistrate shall inform in clear language the person arrested, either in person or through a videoconference, of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, and of his right to have an examining trial. The magistrate shall also inform the person arrested of the person's right to request the appointment of counsel if the person cannot afford counsel. The magistrate shall inform the person arrested of the procedures for requesting appointment of counsel. If applicable, the magistrate shall inform the person that the person may file the affidavit described by Article 17.028(f). If the person does not speak and understand the English language or is deaf, the magistrate shall inform the person in a manner consistent with Articles 38.30 and 38.31, as appropriate. The magistrate shall ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the person arrested is indigent and requests appointment of counsel and if the magistrate is

authorized under Article 26.04 to appoint counsel for indigent defendants in the county, the magistrate shall appoint counsel in accordance with Article 1.051. If the magistrate is not authorized to appoint counsel, the magistrate shall without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel, transmit, or cause to be transmitted to the court or to the courts' designee authorized under Article 26.04 to appoint counsel in the county, the forms requesting the appointment of counsel. The magistrate shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall, after determining whether the person is currently on bail for a separate criminal offense and whether the bail decision is subject to Article 17.027, admit the person arrested to bail if allowed by law. A record of the communication between the arrested person and the magistrate shall be made. The record shall be preserved until the earlier of the following dates: (1) the date on which the pretrial hearing ends; or (2) the 91st day after the date on which the record is made if the person is charged with a misdemeanor or the 120th day after the date on which the record is made if the person is charged with a felony. For purposes of this subsection, "videoconference" means a two-way electronic communication of image and sound between the arrested person and the magistrate and includes secure Internet videoconferencing.

SECTION 4. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "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, 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.

SECTION 5. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.021, 17.022, 17.023, 17.024, 17.027, and 17.028 to read as follows:

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, 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 regarding the number of defendants for whom bail was set during the preceding state fiscal year, 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.

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 section.

(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) 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.

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 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.

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH 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 for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, only the court before whom the case for the previous offense is pending may release the defendant on bail; and

(2) if a defendant is charged with committing an offense while released on bail for another offense 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 monetary 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 hearing before the magistrate on the bail amount. The hearing may be held before the magistrate making the bail decision under Subsection (a) or may occur as a separate pretrial proceeding held for that purpose. The defendant must be given the opportunity to present evidence and respond to evidence presented by the attorney representing the state. 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 hearing under Subsection (h) was not held within 48 hours of the defendant's arrest and must provide to the office the reason for the delay. If a delay occurs that will cause the hearing 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 without considering the factor required by Article 17.15(a)(6).

SECTION 6. (a) Article 17.03, Code of Criminal Procedure, as effective September 1, 2021, is amended by amending Subsection (b) and adding Subsections (b-2) and (b-3) to read as follows:

(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~~

~~](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) Notwithstanding any other law, 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 (indecenty 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);

(S) Section 43.05 (compelling prostitution); or

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

(b) This section takes effect on the 91st day after the last day of the legislative session if this Act does not receive a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, this section has no effect.

SECTION 7. (a) Article 17.03, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsections (b-2) and (b-3) to read as follows:

(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 Children)]; 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) Notwithstanding any other law, 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 children);

(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);

(S) Section 43.05 (compelling prostitution); or

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

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, this section has no effect.

SECTION 8. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.0501 to read as follows:

Art. 17.0501. 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.

SECTION 9. Article 17.15, Code of Criminal Procedure, is amended to read as follows:

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 ~~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.

(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.

SECTION 10. Article 17.20, Code of Criminal Procedure, is amended to read as follows:

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) 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.

SECTION 11. Article 17.22, Code of Criminal Procedure, is amended to read as follows:

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.

SECTION 12. Chapter 17, Code of Criminal Procedure, is amended by adding Articles 17.51, 17.52, and 17.53 to read as follows:

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.

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.

SECTION 13. Article 66.102(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) for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court;
- (8) the exact disposition of the case by a law enforcement agency following the arrest; and
- (9) ~~(8)~~ the date of disposition of the case by the law enforcement agency.

SECTION 14. Section 27.005, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(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) [5] 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.

(c) A course described by Subsection (a)(1)(A) may include a course described by Subsection (a)(1)(B).

SECTION 15. Subchapter C, Chapter 71, Government Code, is amended by adding Section 71.0351 to read as follows:

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, 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.

SECTION 16. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.038 to read as follows:

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 each form submitted under this section in a database that is publicly accessible on the office's Internet website.

SECTION 17. Section 117.055, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), to [T~~o~~] 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).

SECTION 18. Article 17.03(f), Code of Criminal Procedure, is repealed.

SECTION 19. As soon as practicable but not later than April 1, 2022, the Office of Court Administration of the Texas Judicial System shall create the public safety report system developed under Article 17.021, Code of Criminal Procedure, as added by this Act, and any related forms and materials and shall provide to the appropriate officials in each county and each municipality access to the system, forms, and

materials at no cost. If those items are made available before April 1, 2022, the office shall notify each court clerk, judge or other magistrate, and office of an attorney representing the state.

SECTION 20. (a) As soon as practicable but not later than April 1, 2022, the Office of Court Administration of the Texas Judicial System shall:

(1) promulgate the forms required by Articles 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by this Act, and by Section 72.038, Government Code, as added by this Act; and

(2) develop or approve and make available the training courses and certification method as described by Article 17.024, Code of Criminal Procedure, as added by this Act, and develop the procedures and prescribe the forms required by Article 17.53, Code of Criminal Procedure, as added by this Act.

(b) If the items described by Subsection (a) of this section are made available before April 1, 2022, the office shall notify each court clerk, judge or other magistrate, and office of an attorney representing the state.

SECTION 21. Section 117.055, Local Government Code, as amended by this Act, applies only to a withdrawal of funds from a court registry under Section 117.055, Local Government Code, made on or after the effective date provided by Section 23(c) of this Act. A withdrawal of funds from a court registry made before the effective date provided by Section 23(c) of this Act is governed by the law in effect on the date the withdrawal was made, and the former law is continued in effect for that purpose.

SECTION 22. The changes in law made by this Act apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

SECTION 23. (a) Except as provided by Subsection (b) or (c) of this section or another provision of this Act, this Act takes effect January 1, 2022.

(b) Article 17.15(b), Code of Criminal Procedure, as added by this Act, takes effect June 1, 2022, but only if the constitutional amendment proposed by the 87th Legislature, 2nd Called Session, 2021, requiring a judge or magistrate to impose the least restrictive conditions of bail that may be necessary and authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons is approved by the voters. If that amendment is not approved by the voters, Article 17.15(b), Code of Criminal Procedure, has no effect.

(c) Articles 17.021 and 17.024, Code of Criminal Procedure, as added by this Act, and Sections 4, 17, 19, 20, and 21 of this Act take effect on the 91st day after the last day of the legislative session.

### **Floor Amendment No. 1**

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 5, line 1, between "birth" and the underlined comma, insert "or, if impracticable, other identifying information".

(2) On page 6, lines 12-14, strike "regarding the number of defendants for whom bail was set during the preceding state fiscal year" and substitute "from the preceding state fiscal year regarding the number of defendants for whom bail was set after arrest".

(3) On page 6, between lines 23 and 24, insert the following appropriately lettered subsection:

( ) 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.

(4) On page 7, line 14, strike "section" and substitute "article".

(5) On page 7, strike lines 25 through 27 and substitute the following:

(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.

(6) On page 8, strike lines 6 through 8 and substitute the following:

(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.

(7) On page 9, line 27, immediately following "WITH", insert "FELONY".

(8) On page 10, strike lines 3 through 8 and substitute the following:

(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

(9) On page 10, strike line 10 and substitute the following:  
offense punishable as a felony while released on bail for another pending offense punishable as a felony and the

(10) On page 11, line 3, strike "monetary" and substitute "cash or surety".

(11) On page 13, line 2, strike "hearing before" and substitute "review by".

(12) On page 13, line 3, strike "hearing may be held before" and substitute "review may be conducted by".

(13) On page 13, line 5, strike "held for that purpose".

(14) On page 13, lines 5 through 8, strike "The defendant must be given the opportunity to present evidence and respond to evidence presented by the attorney representing the state.".

(15) On page 13, line 17, strike "hearing" and substitute "review".

(16) On page 13, lines 18 and 19, strike "and must provide to the office the reason for the delay".

(17) On page 13, line 19, strike "hearing" and substitute "review".

(18) On page 14, line 11, between "only" and "without", insert "or a defendant who receives a citation under Article 14.06(c)".

(19) On page 21, line 26, between "SECTION 9." and "Article", insert "(a)".

(20) On page 22, line 3, between "case" and "are", insert "in which the defendant has been arrested".

(21) On page 23, between lines 5 and 6, insert the following:

(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.

(22) On page 23, between lines 11 and 12, insert the following:

(b) Article 17.15(a), Code of Criminal Procedure, as amended by this Act, and Article 17.15(c), as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Article 17.15(a), Code of Criminal Procedure, as amended by this Act, and Article 17.15(c), as added by this Act, take effect on the 91st day after the last day of the legislative session.

(23) On page 23, between lines 25 and 26, insert the following appropriately lettered subsection and reletter subsequent subsections and cross-references to those subsections accordingly:

( ) 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).

(24) On page 28, line 17, between "set" and the underlined comma, insert "after arrest".

(25) On page 30, line 15, between "publish" and "each", insert "the information from".

(26) On page 30, line 17, following the underlined period, insert the following: Any identifying information or sensitive data, as defined by Rule 21c, Texas Rules of Civil Procedure, regarding the victim of an offense may not be published under this subsection.

(27) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 411.083(c), Government Code, is amended to read as follows:

(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.

(b) This section takes effect on the 91st day after the last day of the legislative session.

### **Floor Amendment No. 2**

Amend Amendment No. 1 by Smith to **CSSB 6** on page 5, by striking line 11 and substituting the following:  
offense and any person's address or contact information shall be redacted and may not be published under this subsection.

### **Floor Amendment No. 3**

Amend **CSSB 6** (house committee report) on page 6, between lines 23 and 24, by inserting the following appropriately lettered subsection and relettering subsequent subsections and cross-references to those subsections accordingly:

( ) 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.

### **Floor Amendment No. 4**

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 15, line 19, strike "Notwithstanding any other law" and substitute "Except as provided by Articles 15.21, 17.033, and 17.151".

(2) On page 19, line 8, strike "Notwithstanding any other law" and substitute "Except as provided by Articles 15.21, 17.033, and 17.151".

**Floor Amendment No. 6**

Amend **CSSB 6** (house committee printing) by striking page 17, line 18, and substituting the following:

"Prostitution), if the defendant is not alleged to have engaged in conduct constituting an offense under Section 43.02(a);"

**Floor Amendment No. 8**

Amend **CSSB 6** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.071 to read as follows:

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 the purpose of religious worship.

(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.

(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.

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 6** on third reading in added Article 17.071(a)(2), Code of Criminal Procedure, by striking "a nonprofit corporation organized for the purpose of religious worship" and substituting "a nonprofit corporation organized for a religious purpose".

The amendments were read.

Senator Huffman moved to concur in the House amendments to **SB 6**.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Alvarado, Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Nays: Blanco, Eckhardt, Gutierrez, Menéndez, Miles.

### **STATEMENT REGARDING SENATE BILL 6**

Senator Eckhardt submitted the following statement regarding **SB 6**:

The system for setting bail in Texas is broken and in urgent need of reform. But SB 6 is not reform, it is more of the same and worse. The state is jailing an increasing number of Texans without trial, eroding the presumption of innocence at great personal and societal cost. SB 6 will increase the number of Texans held pre-trial and will not make us safer for it.

The U.S. and Texas Constitutions contain a presumption of innocence and prohibit excessive bail. Even the conservative 5th Circuit in *ODonnell v. Harris County*, finding the Harris County bail procedures unconstitutional, described the common

occurrence in Texas courts wherein two misdemeanor arrestees have identical charges and criminal backgrounds but one can afford bail and the other cannot. The court stated, "As a result, the wealthy arrestee is less likely to plead guilty, more likely to receive a shorter sentence or be acquitted, and less likely to bear the social costs of incarceration ... The poor arrestee, by contrast, must bear the brunt of all of these, simply because he has less money than his wealthy counterpart."

Although *O'Donnell* was specific to Harris County, the problem is statewide and has been decades in the making. Of all the people held in Texas jails today, nearly 70% have not yet faced trial. Our rate of pretrial detention per 100,000 Texas residents has doubled since the 1990's. Black people and poor people are overrepresented among those detained pre-trial. And pretrial detention costs taxpayers \$2.4M/day.

SB 6 will exacerbate the disparate impact on poor defendants in the Texas system of bail by making it much harder for poor defendants to get a personal recognizance bond. Choking off judicial discretion to offer personal recognizance bonds is good for the bail bond industry but does nothing for public safety. Dangerous people who can pay cash for bail or for a bail bond will still get out of jail just as they have before this bill was passed. But poor people will continue to languish in jail longer and in greater numbers.

Our current system is ineffective and inefficient. And SB 6 will make this worse by adding more red tape for poor defendants and more pretrial jail beds to sleep in while poor defendants go through that red tape. The Texas Association of Counties estimates the increased administrative cost to counties at \$62M/year. Already, counties cover nearly 90% of all indigent defense costs in Texas. Additional red tape and pre-trial jail beds will require local property tax increases to cover the county costs.

We should have greater transparency and accountability for how judges set bail amounts, what kind of bail they offer (cash, bond, or personal recognizance), and for whom. The training and data collection aspects of SB 6 would be useful in a system that allows and encourages appropriate use of personal recognizance bonds. But severely curtailing their appropriate use is a benefit to no one but bail bond companies which will have greater access to and leverage over low risk/high yield defendants. Widening this trough will come at great cost to defendants and to local taxpayers with no benefit to public safety.

ECKHARDT

### BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read: **SB 1, SB 4.**

### SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 97** by Bettencourt

Relating to processes to address election irregularities; providing a civil penalty.  
To Committee on State Affairs.

**HOUSE BILL ON FIRST READING**

The following bill received from the House was read first time and referred to the committee indicated:

**HB 7** to Committee on Natural Resources and Economic Development.

**CONCLUSION OF MORNING CALL**

The President at 5:18 p.m. announced the conclusion of morning call.

**HOUSE BILL 20 ON SECOND READING**

Senator Hughes moved to suspend the regular order of business and Senate Rule 12.09(a) to take up for consideration **HB 20** at this time on its second reading:

**HB 20**, Relating to censorship of or certain other interference with digital expression, including expression on social media platforms or through electronic mail messages.

The motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, Seliger, West, Whitmire, Zaffirini.

The bill was read second time.

Senator Hughes offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 20** (senate committee report) in SECTION 7 of the bill, by striking added Section 143A.001(1), Civil Practice and Remedies Code (page 5, lines 1-6), and substituting the following:

(1) "Censor" means to block, ban, remove, deplatform, demonetize, de-boost, restrict, deny equal access or visibility to, or otherwise discriminate against expression.

The amendment to **HB 20** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

**HB 20** as amended was passed to third reading by the following vote: Yeas 17, Nays 14.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, Seliger, West, Whitmire, Zaffirini.

**HOUSE BILL 20 ON THIRD READING**

Senator Hughes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 20** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, Campbell, Creighton, Gutierrez, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, Whitmire, Zaffirini.

Nays: Eckhardt, Menéndez, West.

The bill was read third time and was passed by the following vote: Yeas 17, Nays 14.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, Seliger, West, Whitmire, Zaffirini.

**REMARKS ORDERED PRINTED**

On motion of Senator Hughes and by unanimous consent, the remarks by Senators Springer and Hughes regarding **HB 20** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**President:** Senator Springer, what purpose?

**Senator Springer:** Thank you, Mr. President. To ask a question of the author for legislative intent.

**Senator Hughes:** Of course, I'll yield.

**Senator Springer:** Thank you, Senator. As we go through this, there's various types of websites out and other ones, not wanting to make sure that some of our retail ones where people make comments on if I liked a product or didn't like a product. It is the intent that a social medium platform does not include websites or apps whose primary purpose is the sale of good or services. Correct?

**Senator Hughes:** Senator, that's right. And if you look at that definition of social media platform, it requires two things. First of all, that the primary purpose of the site would be the posting of information, comments, messages, or images. And if the primary purpose is selling goods or services, then that is a different primary purpose. And then secondly, it says this, the term social media platform does not include an Internet service provider as defined by Section 324.055, electronic mail or an online service application or website that consists primarily of news, sports, entertainment, or other information or content that is not user generated but preselected by the provider and from which any chat, comments, or an active functionality is incidental to, directly related to, or dependent on the provision of the content described by Subparagraph (i). So, if they're there to sell merchandise, and incidental to that,

posting a comment, Oh, I liked the product, I didn't like the comment, they're out. They're not included. Sites that serve a primarily sales-oriented purpose are not social media platforms under this bill. Thank you for your question.

**Senator Springer:** Thank you, Senator. I appreciate you clarifying that for legislative intent. Thank you. Thank you, Mr. President.

### HOUSE BILL 9 ON SECOND READING

Senator Nelson moved to suspend the regular order of business and Senate Rule 12.09(a) to take up for consideration **HB 9** at this time on its second reading:

**HB 9**, Relating to making supplemental appropriations relating to border security and giving direction regarding those appropriations.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Zaffirini.

The bill was read second time.

Senator Gutierrez offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 9** (house committee printing) on page 3, between lines 18 and 19, by inserting the following:

(a-1) In addition to the purpose described by Subsection (a) of this section, money appropriated by that subsection to the Trusteed Programs within the Office of the Governor may be used during the two-year period beginning on the effective date of this Act to reimburse:

(1) counties and municipalities for costs reasonably incurred by the county or municipality to comply with an executive order issued by the governor relating to protecting and securing the international border; and

(2) individuals for damage to property owned by the individual that occurs as a result of the enforcement of an executive order issued by the governor relating to protecting and securing the international border.

The amendment to **HB 9** was read and failed of adoption by the following vote: Yeas 12, Nays 19.

Yeas: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Senator Gutierrez offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 9** (senate committee printing) in SECTION 3 of the bill, making appropriations to the Department of Public Safety (page 2, between lines 10 and 11), by inserting the following appropriately lettered subsection:

( ) Out of money appropriated in Subsection (a) of this section, the amount of \$2,700,000 may be used only to award a grant to the Kickapoo Traditional Tribe of Texas for enhancing border security.

The amendment to **HB 9** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Senator Gutierrez offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 9** (senate committee printing) in SECTION 6 of the bill, making appropriations to the Truusted Programs within the Office of the Governor (page 2, between lines 59 and 60), by inserting the following appropriately lettered subsection:

( ) Out of money appropriated in Subsection (a) of this section, the amount of \$900 million may be used only to purchase autonomous surveillance towers for use along this state's international border with Mexico.

The amendment to **HB 9** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor, Whitmire.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **HB 9** (senate committee printing) in SECTION 6 of the bill, subsection (d) (page 2, line 55), between "to" and "this", by inserting "or with county jail facilities located within 75 miles of".

The amendment to **HB 9** was read and failed of adoption by the following vote: Yeas 12, Nays 19.

Yeas: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Miles, Powell, West, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor, Whitmire.

**HB 9** was passed to third reading by the following vote: Yeas 23, Nays 8.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Hinojosa, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Zaffirini.

### **SENATE RULES SUSPENDED (Posting Rules and Tag Rule)**

On motion of Senator Birdwell and by unanimous consent, Senate Rule 11.10(a), Senate Rule 11.18(a), and Senate Rule 11.19 were suspended in order that the Committee on Natural Resources and Economic Development might meet and consider **HB 7** at 9:00 a.m. tomorrow in Room E1.012.

### **SENATE RULES SUSPENDED (Posting Rules and Tag Rule)**

On motion of Senator Hughes and by unanimous consent, Senate Rule 11.10(a), Senate Rule 11.18(a), and Senate Rule 11.19 were suspended in order that the Committee on State Affairs might meet and consider **SB 97** at 10:00 a.m. tomorrow in the Betty King Committee Room.

### **CO-AUTHORS OF SENATE BILL 1**

On motion of Senator Hughes, Senators Huffman and Taylor will be shown as Co-authors of **SB 1**.

### **CO-AUTHOR OF SENATE BILL 4**

On motion of Senator Lucio, Senator Taylor will be shown as Co-author of **SB 4**.

### **CO-AUTHORS OF SENATE BILL 6**

On motion of Senator Huffman, Senators Birdwell, Nichols, Perry, and Taylor will be shown as Co-authors of **SB 6**.

### **CO-AUTHOR OF SENATE BILL 7**

On motion of Senator Huffman, Senator Taylor will be shown as Co-author of **SB 7**.

### **CO-AUTHOR OF SENATE BILL 8**

On motion of Senator Bettencourt, Senator Zaffirini will be shown as Co-author of **SB 8**.

### **CO-AUTHOR OF SENATE BILL 15**

On motion of Senator Taylor, Senator Hinojosa will be shown as Co-author of **SB 15**.

**CO-AUTHOR OF SENATE BILL 80**

On motion of Senator Paxton, Senator Springer will be shown as Co-author of **SB 80**.

**CO-AUTHORS OF SENATE BILL 86**

On motion of Senator Eckhardt, Senators Gutierrez and Powell will be shown as Co-authors of **SB 86**.

**CO-AUTHOR OF SENATE BILL 87**

On motion of Senator Eckhardt, Senator Powell will be shown as Co-author of **SB 87**.

**CO-AUTHORS OF SENATE BILL 89**

On motion of Senator Nelson, Senators Buckingham and Kolkhorst will be shown as Co-authors of **SB 89**.

**CO-AUTHORS OF SENATE BILL 91**

On motion of Senator Bettencourt, Senators Birdwell, Buckingham, Creighton, Hall, Hancock, Hinojosa, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Powell, Seliger, Springer, West, and Zaffirini will be shown as Co-authors of **SB 91**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 2**

On motion of Senator Bettencourt, Senator Zaffirini will be shown as Co-author of **SJR 2**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 3**

On motion of Senator Huffman, Senator Kolkhorst will be shown as Co-author of **SJR 3**.

**CO-AUTHOR OF SENATE RESOLUTION 2**

On motion of Senator Zaffirini, Senator Johnson will be shown as Co-author of **SR 2**.

**CO-SPONSORS OF HOUSE BILL 9**

On motion of Senator Nelson, Senators Bettencourt, Buckingham, Creighton, Hancock, Kolkhorst, Paxton, Schwertner, Seliger, and Taylor will be shown as Co-sponsors of **HB 9**.

**CO-SPONSORS OF HOUSE BILL 20**

On motion of Senator Hughes, Senators Bettencourt, Creighton, Kolkhorst, Schwertner, and Taylor will be shown as Co-sponsors of **HB 20**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolution**

**HCR 11** (Campbell), In memory of Katharyn Carterette Bock of New Braunfels.

**Congratulatory Resolutions**

**SR 48** by Hancock, Birdwell, Blanco, Buckingham, Creighton, Eckhardt, Gutierrez, Hinojosa, Huffman, Hughes, Kolkhorst, Nelson, Perry, Schwertner, Seliger, Taylor, Whitmire, and Zaffirini, Recognizing Randall B. Prince on the occasion of his retirement.

**HCR 9** (Kolkhorst), Commemorating the dedication of a Texas Historical Marker at the site of the Wharton Training School in Wharton.

**HCR 10** (Seliger), Congratulating James M. Alsop for receiving the West Texan by Nature Award from the Sibley Nature Center.

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 8:13 p.m. agreed to adjourn, pending the receipt of committee reports, until 1:00 p.m. tomorrow.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 12:59 p.m. Wednesday, September 1, 2021, adjourned until 1:00 p.m. today.

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**APPENDIX**

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**COMMITTEE REPORT**

The following committee report was received by the Secretary of the Senate:

September 1, 2021

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **HB 7**

**BILLS AND RESOLUTION ENROLLED**

August 31, 2021

**SB 1, SB 4, SB 6, SB 15, SR 48**

**SENT TO GOVERNOR**

August 31, 2021

**SB 12, SB 13**

