

Senate Bill 9

89th Texas Legislature



Senate Bill 9 (SB 9), recently passed by the 89th Texas Legislature, addresses the release on bail of habitual and violent offenders. SB 9 also creates new processes related to bail reviews and appeals. This overview does **NOT** summarize every section of SB 9. To read in full, click [here](#).

Key Changes

1. The Public Safety Report System Will Include More Information

The Public Safety Report System (PSRS) developed by OCA will include the following additional information: (1) whether the defendant is on community supervision, parole, or mandatory supervision in another case; (2) whether the defendant is released on bail in another case or participating in a pretrial intervention program; (3) whether an outstanding warrant for the defendant's arrest has been entered into the NCIC or TCIC database; and (4) whether the defendant is subject to an active protective order. This information will appear as part of a defendant's criminal history, if applicable. *See Section 2 of the bill amending Article 17.021(b), Code of Criminal Procedure.*

2. Prosecutors Will Have Limited Access To The Public Safety Report System

Prosecutors will have limited access to the Public Safety Report System. Now, prosecutors will be able to view completed bail forms in the system. *See Section 2 of the bill adding Subarticle (c-1) to Article 17.021, Code of Criminal Procedure.*

3. There Is No Obligation To Prepare A Public Safety Report If The Defendant Is Not In Custody

A magistrate may, but is not obligated to, prepare a public safety report when setting or recommending bail for a defendant who is not in custody at the time the report is ordered, prepared, or considered. *See Section 3 of the bill adding Article 17.022(g), Code of Criminal Procedure.*

4. There Is A NEW Procedure For Notifying The Appropriate Court When A Defendant Commits A Felony While On Bail For A Felony Committed In Another County

The local administrative district judge for each county must designate a person to receive electronic notices from another county when a defendant released on bail for a felony offense commits a subsequent felony. Each county must ensure that the name and contact information of the designated person is included in the Public Safety Report System developed by OCA in accordance with [Article 17.021](#). Upon receiving notice from a county, the designated person must promptly notify the court before whom the case is pending, the district clerk, the attorney representing the state, and the defendant's attorney, if known. The court before whom the case is pending must determine whether the defendant violated

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any bail conditions, and if so, whether to revoke or modify the terms of the defendant's bond. *Section 5 of the bill amending Article 17.027(a)(2), Code of Criminal Procedure, and adding Subarticles (a-1), (c), and (d).*

5. **There Is A Change To The Procedure For Releasing On A Bail A Defendant Charged With Committing A Felony While On Bail For A Previous Felony**

The bill clarifies that [Article 17.027](#) of the Code of Criminal Procedure applies when a defendant is taken before a magistrate for committing a felony while on bail for another felony and reduces the time a magistrate has to notify a court in another county when one of its defendants commits a felony while on bail for a felony committed in that county. The magistrate must notify the other court no later than **the next business day** after the defendant's appearance before the magistrate. *See Section 5 of the bill amending Article 17.027(a)(2), Code of Criminal Procedure.*

6. **Chapter 54 Magistrates May Not Release On Bail Certain Defendants**

A magistrate appointed under [Chapter 54](#) of the Government Code may **not** release on bail a defendant who is charged with committing a felony offense if the defendant:

- was released on bail, parole, or community supervision for another felony offense when the new felony offense was committed;
- is finally convicted of two or more felonies for which the defendant was imprisoned;
- is subject to a federal immigration detainer; or
- is charged with murder, including capital murder, aggravated kidnapping, or aggravated sexual assault.

See Section 5 of the bill amending Article 17.027, Code of Criminal Procedure, by adding Subarticle (a-2).

7. **Chapter 54 Magistrates Must Include The Name of the Appointing Authority On The Bail Order**

A magistrate appointed under [Chapter 54](#) of the Government Code must include in an order granting bail the name of each individual who appointed the magistrate and state that the magistrate was appointed by those individuals. *See Section 5 of the bill amending Article 17.027, Code of Criminal Procedure, by adding Subarticle (a-3).*

8. **Magistrates Are Prohibited From Reducing The Bail Amount Or Conditions Of Bond Set By A District Court**

Magistrates described by [Article 2A.151\(5\) – \(14\)](#), Code of Criminal Procedure, may not reduce the bail amount or conditions of bond set by the judge of a district court, including

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amounts or conditions set by the judge of a district court in another county. *See Section 10 of the bill adding Article 17.092, Code of Criminal Procedure.*

9. Reviewing Or Modifying Bail After Defendant Is Released Because Of Delay (“Speedy Trial” Violation)

During the course of the action, the judge or magistrate before whom the action is pending may require the accused to give another bond, even if the defendant is currently on bail or bond because of delay, in violation of [Art. 17.151](#), Code of Criminal Procedure. However, the judge or magistrate must make certain findings before requiring the defendant to do so. If the judge or magistrate finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are unacceptable, or for any other good and sufficient cause, the judge or magistrate may order the defendant’s rearrest and require the defendant to give another bond. *See Section 9 of the bill amending Article 17.09, Code of Criminal Procedure.*

10. Defendant’s Appearance And PSR Are Required Before Releasing A Defendant Charged With A Felony

If the defendant is charged with a felony offense, the magistrate must ensure the defendant’s appearance before the magistrate and consider a public safety report prepared for the defendant before releasing the defendant on bail, even if the magistrate is releasing the defendant on a bail or bond fixed by the court in which the felony is pending. *See Section 11 of the bill amending Article 17.21, Code of Criminal Procedure.*

11. There Is A NEW Procedure For The Review Of A Bail Decision Made Under Article 17.028, Code Of Criminal Procedure, By A Court that Does NOT Have Jurisdiction To Try The Offense For Which The Defendant Is Charged Or Arrested

If a district court did not make the initial bail decision for a person charged with a felony offense, the bail decision may be reviewed by any district judge in the county. The local administrative district judge for each county must establish a procedure for the district clerk to notify each district judge in the county when the district clerk receives a request to review the bail decision. A district judge must review the bail decision as soon as possible but no later than the **next business day** after the request for the review is filed with the district clerk. The reviewing judge must comply with [Article 17.09](#), Code of Criminal Procedure, and the [rules](#) for setting bail and must consider the facts presented. If the reviewing judge increases the bail amount or require additional conditions of bail for a defendant who is not in custody, the judge must issue a summons to appear and give the defendant a reasonable

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opportunity to appear before issuing a warrant for the defendant's arrest. *See Section 6 of the bill adding Article 17.029, Code of Criminal Procedure.*

12. Restrictions On The Use Of Personal Bond

A defendant may not be released on personal bond if the defendant is charged with: murder under [Section 19.02\(b\)\(4\)](#), Penal Code; violating certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case under [Section 25.07](#), Penal Code; unlawful possession of a firearm under [Section 46.04\(a\)](#), Penal Code; or terroristic threat under [Section 22.07](#), Penal Code, if the offense is punishable as a Class A misdemeanor or higher category. *(Please note that the bill removes the requirement that the defendant must have committed the terroristic threat while released on bail or community supervision for an offense involving violence.)* The bill also removes a magistrate's authority to grant a personal bond if the defendant commits a felony offense, a Class A misdemeanor assault, a deadly conduct offense, or certain disorderly conduct offenses while on parole for an offense involving violence. *See Section 7 of the bill amending Article 17.03 (b-2), Code of Criminal Procedure.*

13. Confinement Before Sentencing Is NOW Mandatory Under Certain Circumstances

If the defendant enters a plea of guilty or nolo contendere to an offense listed in [Article 42A.054\(a\)](#), Code of Criminal Procedure, and the court adjudges the defendant guilty of that offense, the court must confine the defendant prior to sentencing if the offense is one for which a jury cannot recommend community supervision. *See Section 12 of the bill adding Article 27.20, Code of Criminal Procedure.*

14. A Court Must Make And Enter An Affirmative Finding In The Judgment Or Dismissal Order If The Defendant Fails To Appear After Being Released From Custody For The Offense

If the court determines that the defendant **willfully** failed to appear after being released from custody for a Class B misdemeanor or higher category of offense, the court must make and enter an affirmative finding of the fact in the judgment or dismissal order in the case. The affirmative finding must include the number of times the defendant failed to appear for the offense. *See Sections 13 and 14 of the bill adding Section 17 to Article 42.01 and Article 42.0195, Code of Criminal Procedure.*

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15. The State Is Now Entitled To Appeal An Order Granting Bail In An Amount the State Considers Insufficient

The attorney for the state is entitled to appeal an order granting bail if the state believes the bail amount is insufficient. ***However, this right is limited to certain cases.*** The case must involve a murder, a capital murder, certain aggravated assaults, an aggravated kidnapping, an aggravated robbery, an aggravated sexual assault, an indecency with a child, or a trafficking of persons or continuous trafficking of persons offense, or the defendant must have committed a felony while on bail for a previous felony. The court of appeals will conduct a *de novo* review of the bail decision and issue an order no later than the 20th day after the appeal is filed. The court of appeals can affirm or modify the bail amount or reject and remand the case for modification of the bail amount. If the defendant is in custody, he or she will remain in custody during the pendency of the appeal. If the defendant is on bail, the defendant is entitled to remain on the existing bail during the pendency of the appeal. The Texas Supreme Court must adopt rules to implement the state's right of appeal under the bill no later than October 1, 2025. *See Sections 15, which amends Article 44.01, Code of Criminal Procedure, and 20 of the bill.*

Questions?

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