

[2017 Session] Safely Improve Pretrial Release Rates in Texas

Policy Background:

Pretrial release decisions are crucial to the safe and efficient operation of Texas jails. Unfortunately, a 2016 study found that “Texas’ resource-based bail system keeps low-risk individuals unnecessarily detained before trial and allows risky defendants to buy their freedom with limited oversight. This practice undermines public safety, disproportionately harms low-income defendants, and costs counties millions of dollars every year.”¹

Risk assessment tools that more accurately measure a person’s risk to the community, as opposed to resource-based assessments that discriminate against low-income defendants, could alleviate the costly strain on county jails, along with increased and safe use of personal bonds and a presumption of pretrial release for low-risk individuals.

Texas policy-makers should require each arrestee to be assessed using a validated pretrial risk assessment prior to appearing before a magistrate, for consideration at the bail hearing. Policy-makers should also create a presumption of pretrial release, while allowing judicial discretion to utilize existing forms of bail.

Separately, policy-makers must ensure adequate funding for pretrial supervision. This will give eligible individuals the opportunity to remain stable, productive members of their families and communities while awaiting trial, and will alleviate the strain on county jails.

Key Facts:

- As of December 1, 2016, Texas county jails housed more than 65,000 people. Approximately 41,000 (62%) were in pretrial detention.

Of those pretrial detainees, nearly 5,900 were charged with a misdemeanor.²

- At an average cost of \$59 per person per day,³ this misdemeanor population alone costs taxpayers approximately \$350,000 per day – and would equate to more than \$127 million per year.

Relevant Bills:

- **Bill Number:** [HB 3011](#) [Murr, Coleman] - *enabling legislation for HJR 98*
Bill Caption: Relating to the pretrial release of a defendant and to funding for judicial continuing legal education.
House Hearing Notice: [Criminal Jurisprudence, April 17, 2017](#)
TCJE House Action: [Card in support](#)
- **Bill Number:** [HJR 98](#) [Murr, Coleman]
Bill Caption: Proposing a constitutional amendment authorizing the denial of pretrial release of a person accused of a noncapital offense if necessary to ensure the person's appearance in court and the safety of the community and the victim of the alleged offense.
- **Bill Number:** [SB 1338](#) [Whitmire; Sponsor: Murr] - *enabling legislation for SJR 50*
Bill Caption: Relating to bail and to judicial education regarding bail practices.
Senate Hearing Notice: [Criminal Justice, April 4, 2017](#)
TCJE Senate Action: [Card in support](#)
House Hearing Minutes: [Criminal Jurisprudence, May 20, 2017](#)
- **Bill Number:** [SJR 50](#) [Whitmire]
Bill Caption: Proposing a constitutional amendment authorizing the denial of pretrial release of a person accused of a noncapital offense if necessary to ensure the person's appearance in court and the safety of the community and the victim of the alleged offense.
Senate Hearing Notice: [Criminal Justice, April 4, 2017](#)
- **Bill Number:** [HB 608](#) [Dutton]
Bill Caption: Relating to the eligibility of certain defendants for release on personal bond.
- **Bill Number:** [HB 3738](#) [Murr] - *enabling legislation for HJR 98*
Bill Caption: Relating to the pretrial release of a defendant.

Other Bills Related to Pretrial Detention & Release:

- **Bill Number:** [HB 662](#) [Canales]
Bill Caption: Relating to a credit toward payment of costs for a defendant confined in jail or other facility before sentencing.
- **Bill Number:** [HB 686](#) [Wu]
Bill Caption: Relating to bail release decisions in criminal cases and the payment of certain costs by a defendant released on bail.
- **Bill Number:** [HB 1177](#) [Murr, Wilson; Sponsor: Buckingham]
Bill Caption: Relating to the release on personal bond of a person arrested for an out-of-county offense under certain circumstances.
House Hearing Notice: [Criminal Jurisprudence, March 27, 2017](#)
Senate Hearing Notice: [Criminal Justice, May 10, 2017](#)
- **Bill Number:** [HB 1314](#) [Israel, White, Wu]
Bill Caption: Relating to the release on personal bond of a person who is pregnant.
House Hearing Notice: [Criminal Jurisprudence, March 27, 2017](#)
TCJE House Action: [Card in support](#)
- **Bill Number:** [HB 2439](#) [Muñoz, Jr.]
Bill Caption: Relating to policies and procedures for the issuance of personal bonds in certain counties.
- **Bill Number:** [SB 633](#) [Buckingham]
Bill Caption: Relating to the release on personal bond of a person arrested for an out-of-county offense under certain circumstances.

Other Materials:

- Public Policy Research Institute Report: [Liberty and Justice: Pretrial Practices in Texas](#) [March 2017]

[Click here](#) for a *Summary and Conclusions* document.
- TCJE Fact Sheet: [Responses to Five Claims About Personal Bonds and Pretrial Reform](#) [January 2017]
- TCJE Fact Sheet: [Preventive Detention Should Be The Carefully Limited Exception, Not The Rule](#) [January 2017]
- Texas Judicial Council, Criminal Justice Committee: [Report and Recommendations on Pretrial Decision-Making Practices](#) [October 2016]

- [TCJE Interim Testimony](#) before House County Affairs and Criminal Jurisprudence Committees [September 2016]

Charge: Review pretrial service and bonding practices throughout the state. Examine factors considered in bail and pre-trial confinement decisions, including the use of risk assessments; assess the effectiveness and efficiency of different systems in terms of cost to local governments and taxpayers, community safety, pretrial absconding rates and rights of the accused.

- [TCJE Interim Testimony](#) before Senate Criminal Justice Committee [May 2016]

Charge 4: Examine the success of current pretrial diversion and treatment programs in Texas and in other states. Make recommendations on best practices and how to implement and expand these programs in Texas to maximize effective use of resources and reduce populations in jails.

- [TCJE Interim Testimony](#) before House Criminal Jurisprudence and Corrections Committees [May 2016] – *see recommendation 2 related to maximizing pretrial supervision*

Charge: Examine fees and revocations for those on probation and parole; examine effectiveness of fees imposed as a condition of probation and parole; study technical revocations in adult probation to identify drivers of revocations, disparities across the state, and strategies for reducing technical revocations while ensuring program effectiveness and public safety.

- [TCJE Interim Testimony](#) before Senate Criminal Justice Committee [May 2016] – *see final recommendation related to pretrial diversion programs*

Charge 6: Review costs family members incur to maintain contact with an incarcerated family member. Make recommendations to promote familial contact and relationships for incarcerated individuals. Review visitation practices across the state in determining effective and appropriate methods of maintaining familial contact for incarcerated individuals.

- [TCJE Interim Testimony](#) before Senate Criminal Justice Committee [May 2016] – *see recommendation 2 related to pretrial reentry models*

Charge 3: Review current programs provided by the Texas Department of Criminal Justice (TDCJ) and the Windham School for incarcerated persons to prepare them for re-entry, including inmates in administrative segregation.

Examine opportunities for incarcerated persons once they are released and make recommendations to expand successful programs to provide resources and support for released inmates. Assess the success of Certified Peer Support Services. Continue to monitor the Darrington Seminary Program. Study the continuity of care for individuals released from TDCJ, the Windham School, and county and municipal jails and make recommendations if needed.

¹ Nathan Fennell and Meredith Prescott, LBJ School of Public Affairs, *Risk, Not Resources: Improving the Pretrial Release Process in Texas*, June 2016.

² Texas Commission on Jail Standards, *Texas County Jail Population*, December 1, 2016.

³ Texas Commission on Jail Standards, *Immigration Detainer Report, 11/1/2016*; this figure is calculated by dividing the total cost of detention by the total number of inmate days (\$59.33).