

BILL ANALYSIS

Senate Research Center
85R7448 MAW-F

S.J.R. 50
By: Whitmire
Criminal Justice
3/31/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To authorize Section 2 of S.B. 1338 that allows a judge to deny pre-trial release to a defendant who commits a violent offense and the judge finds that the defendant represents a danger to the public or a specific victim. C.S.S.J.R. 50 clarifies that a violent offender who also displays or utilizes a deadly weapon is also eligible for denial of pre-trial release.

The constitutional amendment will be presented to the voters of the State of Texas on November 7, 2017. If it fails only section 2 of C.S.S.B. 1338, which authorizes the judge to deny pre-trial release to a defendant will not be enacted. Current law already allows for specific offenses to be denied bail and the current law will remain in effect. The remainder of C.S.S.B. 1338 will be effective if passed by the legislature.

S.J.R. 50 proposes 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

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11, Article I, Texas Constitution, as follows:

Sec. 11. (a) Requires any person accused of an offense, rather than all prisoners, except as provided by Subsection (b) of this section and Sections 11a (Multiple Convictions; Denial of Bail), 11b (Violation of Condition of Release Pending Trial; Denial of Bail), and 11c (Violation of an Order for Emergency Protection Involving Family Violence) of this article, to be eligible for pretrial release, whether on a bail bond or a personal bond, rather than bailable by sufficient sureties, unless the person is accused of a capital offense for which the proof is evident. Requires this provision to not be construed to prevent pretrial release, rather than bail, after indictment found upon examination of the evidence, in such manner as may be prescribed by law. Makes nonsubstantive changes.

(b) Authorizes a person to be denied pretrial release if a judge or magistrate determines by clear and convincing evidence that requiring bail and conditions of release are insufficient to reasonably ensure the person's appearance in court as required, or the safety of the community or the victim of the alleged offense.

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election held on November 7, 2017. Sets forth the required language of the ballot.