

## **BILL ANALYSIS**

Senate Research Center

H.J.R. 4  
By: Kacal et al. (Huffman)  
Jurisprudence  
5/14/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties contend that the most violent offenders whose release puts their victims, communities, and law enforcement at risk should not be released on bail. H.J.R. 4 gives magistrates discretion to deny pretrial release to defendants accused of violent offenses, sexual offenses, or an offense of continuous trafficking of persons in the most severe cases.

In order to deny bail, a magistrate must determine by clear and convincing evidence that release with conditions is insufficient to ensure public safety and a defendant's appearance in court. A magistrate must also issue a written order with findings of fact explaining why bail was denied.

H.J.R. 4 proposes a constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.

### **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 Article I, Texas Constitution, by adding Section 11d, as follows:

Sec. 11d. (a) Authorizes a person accused of committing a violent or sexual offense, or of committing continuous trafficking of persons, to be denied bail pending trial if a judge or magistrate determines by clear and convincing evidence that requiring bail and conditions of release is insufficient to reasonably ensure the person's appearance in court as required or the safety of the community, law enforcement, or the victim of the alleged offense.

(b) Requires a judge or magistrate who denies a person bail in accordance with this section to prepare a written order that includes findings of fact and a statement explaining the judge or magistrate's reason for the denial.

(c) Prohibits this section from being construed to limit any right a person has under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate or to require any hearing or procedure before a judge or magistrate makes a bail decision with respect to a person to whom this section applies.

(d) Defines "violent offense" and "sexual offense."

SECTION 2. Requires that the proposed constitutional amendment be submitted to the voters at an election to be held November 2, 2021. Sets forth the required language of the ballot.