

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Criminal Justice Committee Bail and Preventative Detention Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Criminal Justice Committee was charged with continuing to evaluate and monitor Texas' pretrial bail system for improvement and recommending any further statutory and non-statutory changes; and

WHEREAS, except for very limited circumstances, the current Texas Constitution and statutory framework does not provide magistrates with preventive detention authority in non-capital cases, even when the defendant before the magistrate poses the highest risk of flight or to public safety; and

WHEREAS, at least 27 states and the District of Columbia, as well as the federal system, have statutes or constitutional provisions that authorize detention without bail in non-capital cases; and

WHEREAS, these preventive detention provisions are a recognition that there are some defendants for which there are no conditions of release which would reasonably assure the defendant's appearance at court and the safety of the community; and

WHEREAS, the Council believes pretrial decisions should be made based upon risk of flight and to public safety; and

WHEREAS, the Council believes that the Texas Constitution and related statutes should be amended to provide magistrates with the authority to use preventive detention to hold defendants charged with a violent crime and that pose a high flight risk and/or high risk to community safety; and

WHEREAS, the 87th Legislature required the Office of Court Administration to develop the Public Safety Report System (PSRS) to assist magistrates in making bail decisions and to collect and publish data regarding those decisions; and

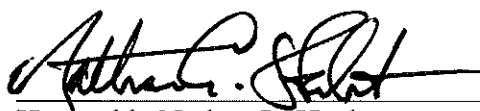
WHEREAS, the PSRS is used by magistrates in setting bail for all Class B misdemeanor and higher offenses; and

WHEREAS, jurisdictions have raised concerns that data entry into the PSRS is burdensome; and

WHEREAS, the PSRS has been updated to include an integration functionality that will enable it to transfer the bail information from the PSRS to local jurisdictions' court and jail case management systems;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests the Legislature:

1. Amend the Texas Constitution and enact related statutes to provide that certain defendants charged with a violent crime and posing a high flight risk and/or high risk to community safety may be held in jail without bail pending trial after certain findings are made by a magistrate and a detention hearing is held; and
2. Provide funding to counties to allow local case management and jail systems to integrate with the Public Safety Report System.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council