

# Senate Bill 9 Frequently Asked Questions

## Public Safety Report System

Senate Bill 9 (SB 9), recently passed by the 89<sup>th</sup> Texas Legislature, addresses the release on bail of habitual and violent offenders. SB 9 also creates changes to the Public Safety Report System (PSRS), new processes related to bail reviews and appeals. This document addresses frequently asked questions.

|             |  |
|-------------|--|
| Question #1 | Where can I find an overview of Senate Bill 9? |
| Answer      | For an overview, click <a href="#">here</a> .  |

|             |   |
|-------------|---|
| Question #2 | Per Article 17.027, how much time do the district judges have to set bond?                  |
| Answer      | The court/designated court will have the same statutory time to set bond which is 48 hours. |

|             |   |
|-------------|---|
| Question #3 | Per Article 17.027, does the judge authorized under this article need to be an elected district judge or can it be a retired judge or visiting judge? |
| Answer      | A retired district judge or visiting judge assigned to the court can also set bond.   |

|             |   |
|-------------|---|
| Question #4 | Per Article 17.027, does the district judge need to set bond hearing within 48 hours or the next business day?  |
| Answer      | The court receiving a case transferred pursuant to Art. 17.027(a)(1) must set bail within 48 hours of the defendant's arrest for the offense. Language regarding "the next business day" applies to the magistrate's duty to notify the court in another county when one of the defendants released on bail for a felony offense in the other county commits a new felony in the county of the magistrate providing the notice. |

|             |  |
|-------------|--|
| Question #5 | Per Article 17.027 (a-3), do we list all judges under the council of judges or only the LAJ?         |
| Answer      | This is dependent on the authorizing statute for the county and who will sign the appointment order. |

|             |   |
|-------------|---|
| Question #6 | Under the new provisions of CCP Art. 17.027(a-2), is it required that the district judge set the bond at a hearing with all parties (State, defense, defendant) present, or may the judge set bond remotely via Zoom with only the defendant and clerk staff present? |
| Answer      | In reference to 17.027, if bail is being set by a district judge, all parties are not required.   |

|             |  |
|-------------|--|
| Question #7 | Will a transfer order be created when a case needs to be referred to a district judge?                                 |
| Answer      | Due to differing procedures and policies for counties, each jurisdiction will need to create their own referral order. |

|             |   |
|-------------|---|
| Question #8 | Can a Chapter 54 magistrate issue a no bond in cases where they are not allowed to make a bail decision? Is that considered a bail consideration under Article 15.17? |
| Answer      | For cases where a magistrate is not allowed to set bail, setting bail includes any decisions, including a denial of bail.   |

|             |  |
|-------------|--|
| Question #9 | Is there some mechanism whereby the District Judges could designate the Chapter 54 Magistrates not to release someone on a personal bond, but to just set an amount of bail (or would that count as potentially “releasing someone” since once bail is set, they could post it and be released from jail)? |
| Answer      | Due to setting an amount of bail may allow the person to be released, the magistrate may not set a bail amount.  |

|              |   |
|--------------|---|
| Question #10 | Can Chapter 54 Magistrates make a recommendation to the District Judge and forward that recommendation and the PSR to the District Judge to have the District Judge set the bail amount and determine bond eligibility? |
| Answer       | The magistrate may but is not required to provide a recommendation to the district judge.   |

|              |   |
|--------------|---|
| Question #11 | Per Article 42.0195, will the dismissal forms be updated?   |
| Answer       | Yes, OCA's model felony judgment forms will be updated. Counties will need to update any other judgment and dismissal forms used by courts. |

|              |   |
|--------------|---|
| Question #12 | Per Article 42.0195, specific to, "affirmative finding must include the number of times the defendant failed to appear for the offense", who will provide this information to the court?  |
| Answer       | The court will be aware of failures to appear from the court's own knowledge, the clerk, and/or prosecutor. The judge must first make an affirmative finding of fact that the defendant willfully failed to appear before entering the finding in the judgment. |

|              |   |
|--------------|---|
| Question #13 | Per Article 17.029, could a district judge review a bail decision remotely/virtually?   |
| Answer       | Article 17.029 does not require a hearing for the process of reviewing a bail decision. If the court increased the bond amount or adds conditions of bond, the defendant must be summoned to appear before the court. |

|              |   |
|--------------|---|
| Question #14 | Per Article 17.029, can the judge modify bond on PSR and bail form or does there need to be a hearing set?  |
| Answer       | The district judge can modify the bond by considering a PSR and would issue a modified bail form if the amount of bail was modified, and if they increase the amount or add conditions, they must summon the defendant to appear before them. |

|              |   |
|--------------|---|
| Question #15 | Could a Chapter 54 Magistrate provide statutory warnings, find probable cause, and refer the case to a District Court on the next business day for setting bail, if the next regularly scheduled docket is more than 48 hours after arrest? |
| Answer       | No, under CCP 15.17 the bail decision must actually be made within 48 hours of any arrest regardless of the District Courts regularly scheduled dockets, holidays, or Friday night arrests.   |

|              |  |
|--------------|--|
| Question #16 | When a defendant is released pursuant to the 17.151 timeline violation and the judge thereafter finds the bond insufficient, can that finding be made before the defendant is physically released from jail? |
| Answer       | Art. 17.09 or Art. 17.151 do not specify a timeline for this process.  |

|              |   |
|--------------|---|
| Question #17 | Are there any changes in how individuals will be released if the 48-hour time limit is reached?   |
| Answer       | No, but there is new requirement that a Chapter 54 Magistrate comply with Art 15.17, Gov't Code 54.003(b). If they failed to meet the requirements a Local Administrative Judge would be obligated to report the violation under 54.003(b). |

|              |  |
|--------------|--|
| Question #18 | If there is a finding of willful failure to appear, would a bond forfeiture automatically need to be recorded/issued?  |
| Answer       | A bond forfeiture is not required for an failure to appear to be deemed as willful and the statute directs the judge to include how many times the defendant willfully failed to appear on a specific offense. The court should do so, including times that resulted in the defendant forfeiting a bond or facing additional charges under Penal Code 38.10. |

|              |   |
|--------------|---|
| Question #19 | Can a warrant still list a recommended bond amount or does bond have to be set until magistration?  |
| Answer       | The amount on an arrest warrant will be a recommended bond amount, not an actual bond amount. Article 17.21 requires appearance before magistrate in consideration of the PSR before bail decision is made. |

|              |   |
|--------------|---|
| Question #20 | Does "pending" or "referred" mean "no bond"?  |
| Answer       | A notation of "pending" or "referred" would generally mean that the bail decision hasn't been made yet, and it is being sent to a magistrate or court with jurisdiction to do so. This designation would have no legal effect and doesn't satisfy the 48-hour bail requirement. |

|              |  |
|--------------|--|
| Question #21 | Does the requirement for district judges to review or set bond within 48 hours for certain offenses mean that they must be available at all times, including nights and weekends?  |
| Answer       | The only statute that requires a district judge to review by the "next business day" is Art. 17.029. Other statutes do require a bail decision within 48 hours, but either do not require a district judge, or in the case of an Art. 17.027 arrest in the same county, the original district court can designate another magistrate in writing to make the bail decision in the new case. |

|              |   |
|--------------|---|
| Question #22 | Will the PSRS integrate with the TCIC Conditions of Bond file maintained by DPS?                |
| Answer       | The PSRS will only retrieve information from TCIC. The PSRS does not add to a defendant's CHRI. |

|              |   |
|--------------|---|
| Question #23 | If a Chapter 54 Magistrate/Judge sets a bond on a felony, and the same defendant is arrested again in another municipality for another felony, and neither case is indicted, who has jurisdiction?  |
| Answer       | If the case hasn't been filed with the district court yet, and the original magistrate hasn't designated someone else in writing, the original magistrate must make the bail decision in the new case. If the new felony is in a DIFFERENT county, then that magistrate needs to be electronically notified of the new offense and the new magistrate can make a bail decision in the new felony. |

|              |  |
|--------------|--|
| Question #24 | If a Chapter 54 magistrate doesn't have jurisdiction to make a bail decision can they mark "pending or referred" on the magistrate warning?                                      |
| Answer       | They can make that notation to let other county officials know that the bail decision is still required, but it has no legal effect and doesn't satisfy the 48-hour requirement. |

|              |   |
|--------------|---|
| Question #25 | When magistrating a person arrested on a new felony charge who is serving a community supervision sentence will the cross-county felony notification automatically happen or will the magistrate have to call the court they are out on community supervision for?  |
| Answer       | There is no requirement to notify under CCP 17.027(a)(2) because the defendant is not on bail for the offense which they are serving community supervision. Beginning January 1, 2026 a PSRS user could use the cross county notification functionality of the PSRS to notify a court who is supervising a defendant post-conviction. |

|              |   |
|--------------|---|
| Question #26 | Much of the language within the guidelines and FAQ refer to district judges, why is there little reference to county court at law judges?   |
| Answer       | A good portion of SB9 addresses bail for felony offense or re-offenses that are handled in district court. County court at law judges continue to have the same responsibilities as before with regard to PSRS entry and modifications. |

|              |  |
|--------------|--|
| Question #27 | Must the Judge review the PSR Report when changing bond amount and/or bond conditions?   |
| Answer       | Overall, it depends on the exact situation. However, review of the PSR or Bail Form may be insightful and aide in decision making. |

|              |   |
|--------------|---|
| Question #28 | If the voters approve SJR 5, would the hearing be automatic where the State has to prove one of the two burdens for denial of bail or would the State need to request it? |
| Answer       | The hearing will not be automatic under the law, but local jurisdiction may elect to set a policy for these hearings.   |

|              |   |
|--------------|---|
| Question #29 | Does the Judge have to modify the bond form in the PSRS System if the judge changes the bond/bond conditions?                         |
| Answer       | Yes, if the judge changes the amount, a modified bail form must be submitted. No form is required if only the conditions are changed. |

|              |   |
|--------------|---|
| Question #30 | Is a bail form required when bond is set pre-arrest?                          |
| Answer       | No, presuming this is an initial arrest warrant and not a trial court capias. |

|              |   |
|--------------|---|
| Question #31 | Are Sheriff's required to hold without bond SB9 defendants until they see a District Judge?                                 |
| Answer       | There is no provision of SB 9 requiring a defendant to be held without bail until they are brought before a district judge. |

|              |  |
|--------------|--|
| Question #32 | What is the consequence if bail is not set within 48 hours?                      |
| Answer       | Violation of constitutional rights of the defendant as well as county liability. |

|              |   |
|--------------|---|
| Question #33 | If arrest date and time is entered in CMS at time of booking process. Is that when the clock starts for the 48hrs.? |
| Answer       | 48 hours starts from the actual time of arrest.   |

|              |  |
|--------------|--|
| Question #34 | Is Executive Order GA-13 still in effect for PR Bonds? |
| Answer       | No, Executive Order GA-13 is expired.                  |

|              |   |
|--------------|---|
| Question #35 | Does the bail setting with the District Judges need to be video and audio recorded? Do the District judges need to be in the courthouse on the weekends and holidays? Or is it sufficient for the record to be written form and other documentation 15.17 subsection? |
| Answer       | Bail hearings may be virtual and are not required to be recorded. A written record of the proceeding is sufficient. The district judge holding an initial Art. 15.17 bail hearing may be located anywhere in the state.   |

|              |   |
|--------------|---|
| Question #36 | Will OCA provide a template or sample appointment order for the magistrate judge? |
| Answer       | No  |

|              |  |
|--------------|--|
| Question #37 | Do municipal or justice of the peace judge have jurisdiction to set bond but a Chapter 54 judge cannot?  |
| Answer       | Yes, there are certain offenses that Ch. 54 magistrates are restricted from making bail decisions on. Other magistrates, including justices of the peace and municipal judges, do not have the same restriction. |

|              |   |
|--------------|---|
| Question #38 | Is OCA going to release a sample felony and/or misdemeanor judgement form?          |
| Answer       | Yes, OCA is working on both judgements which will be published on our website soon. |

|              |   |
|--------------|---|
| Question #39 | We are seeing an increase in misdemeanor warrants being issued over on-site/on-view arrests and believe it may be a way to get around entering information into the PSRS. Does the PSRS track warrants filed?   |
| Answer       | Entry into the PSRS is made only AFTER an arrest is made. There is no benefit in obtaining a warrant vs. making an on-view/on-site arrest with regard to PSRS data entry. The OCA website has up-to-date dashboards that include statewide arrest information and may also be filtered by county. You can access this dashboard at <a href="#">PSRS Statistics and Dashboards</a> . |



|              |  |
|--------------|--|
| Question #40 | Do any Chapter 54 Magistrates have the ability to try a felony jury trial? |
| Answer       | Judges should consult their enabling legislation in Chapter 54.            |

|              |  |
|--------------|--|
| Question #41 | If a criminal law hearing officer determines probable cause, provides statutory warnings, and then refers the case or 'dockets it' to the district court for a bail determinization on the next business day, is this permissible under for SB9? |
| Answer       | Yes, so long as bail is determined and set within the 48-hour time frame.  |

|              |   |
|--------------|---|
| Question #42 | If probable cause and statutory warnings are given to a defendant arrested on a Friday, can the bail decision then be made on Monday by the District Judge? |
| Answer       | No. A bail decision must be made within 48 hours of arrest.   |

|              |  |
|--------------|--|
| Question #43 | Will the OCA be providing guidance for determining new Local Administrative District Judge (LADJ) requirements outlined in SB9 or SB664?   |
| Answer       | This will be an internal process. Duties for the LADJ are outlined within the codes referenced, however, each local jurisdiction will need to determine how those duties will be assigned and carried out. |

|              |   |
|--------------|---|
| Question #44 | Does the OCA have an opinion if after an individual has been through warnings and probable cause handled by a magistrate (all in person), if a district court judge who is setting the bail is authorized <u>without holding an in person hearing or Zoom hearing</u> to set that initial bail based upon the PSR and the documents in the file? So essentially set initial bail by submission. |
| Answer       | A defendant is required to appear before a judge either in person or by video conference for the setting of bail under Article 15.17.   |

|              |  |
|--------------|--|
| Question #45 | Does the OCA have an opinion if after an individual has been through warnings and probable cause handled by a magistrate (all in person), if a district court judge is <u>required to be in the county</u> when setting that initial bail, or if the judge may do so remotely? |
| Answer       | A magistrate can be located anywhere in the state; therefore, the district court judge is not required to be in the county when setting bail initially.  |

|              |  |
|--------------|--|
| Question #46 | Does the OCA have an opinion if after an individual has been through warnings and probable cause handled by a magistrate (all in person), if a district court judge is <u>required to be in the State of Texas</u> when setting the bail, or if the judge may do so remotely from another State? |
| Answer       | While there is no settled law on this topic, the best practice to avoid legal challenges is for a magistrate to be located in the State of Texas when making a bail decision.  |