

# 89<sup>th</sup> Legislative Session

**Texas Association of Pretrial Services**  
Legislative Priorities – 2025

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**The goal of the Texas Association of Pretrial Services (TAPS) Board is to support and advocate for the appropriate Pretrial release and diversion of eligible defendants in the State of Texas, which is consistent with the Constitutions of the United States and Texas.**

**In regards to the enclosed legislative priorities, an Advisory Committee was formed in 2024 from various members of the State at the Judiciary, District Attorney, Public Defender, CSCD, and Community Resource groups to review the priorities of the TAPS Board and Membership for consistency and application across the wide spectrum of Pretrial Services aspects.**

**What follows is the dedicated work of the TAPS Board and the Advisory Committee in putting forward our top legislative priorities which we feel will move the needs of the Association, State, and Defendants we work with to better and safer outcomes for the Victims of crime as well as our local populations.**





**Legislative Priority 1: Move Cite and Release eligible charges to Class C Misdemeanor to free up local law enforcement, jail and Magistrate resources for higher level charges.**

Description: According to the Public Safety Report System (PSRS) data provided by the Office of Court Administration as required by SB 6 (87th Leg), charges currently eligible for cite and release under Article 14.06 make up 10-15% of all arrests for the State of Texas. These charges are currently eligible for a citation, but are arrested, booked, Magistrated and potentially detained in/released from custody on money bonds. This is inappropriate at best and unnecessarily occupies local law enforcement, Sheriff/Jailers, and Magistrate Judge and Clerks time and resources.

Policy Recommendation: Move article 14.06 charges to Class C designation.

**Legislative Priority 2: Personal Bond utilization should be encouraged and expanded in the State of Texas, not further restricted.**

Description: According to the Office of Court Administration PSRS, more than 60% of all arrests in the State of Texas are eligible for release under Article 17.42 Personal Bond. However, this same data shows Personal Bond utilization is less than 11% across the State (as computed by dividing the number of personal bonds granted out of all bonds). Personal Bond was introduced to help alleviate jail overcrowding for lower-level defendants. Research has shown SB 6 (87th Leg) had the consequence of increasing many local jail populations by 10-15% without the funding to accommodate the work and further restrictions for who could be released through the Personal Bond process would be inappropriate at this time when it is already underutilized across the state.

Policy Recommendation: HB 4398 (88th Leg) was introduced last session to help expand the role of the Personal Bond statute as well as introduce "Pretrial" into the language of the Texas Statutes but was not passed. We would ask similar language in order to clarify what role the Personal Bond and Pretrial Supervision Office should have. As stated in the bill, this include:



Art. 17.42. PERSONAL BOND OR PERSONAL BOND AND PRETRIAL SUPERVISION OFFICE.

- (1) indigent legal services monitoring, including:
  - (A) assisting defendants in filing applications for indigent legal services;
  - (B) reviewing applications and documentation to assist the court in determining eligibility for indigent legal services; and
  - (C) coordinating with appointed attorneys to ensure sufficient legal services are provided;
- (2) pretrial rehabilitative services, including:
  - (A) determining what rehabilitative services are available to a defendant;
  - (B) making recommendations to this state, to defense counsel, and to the court on rehabilitative services; and
  - (C) monitoring the placement of defendants in rehabilitative services;
- (3) coordination of mental health services, including:
  - (A) recommending mental health testing;
  - (B) assisting defense counsel in meeting mental health testing requirements;
  - (C) monitoring compliance with mental health testing dates; and
  - (D) assisting magistrates with mental health orders and testing; and
- (4) other services as are required to fulfill the goals of pretrial bond supervision.

Larger Counties have already adopted/updated their Personal Bond Offices with bond conditions and supervision aspects. This expansion of duties and responsibilities would recognize them as such and provide for other Counties to be able to do the same. Research has shown higher utilization of Personal Bonds and a high functioning Personal Bond Office can lead to lower local jail populations and lower arrests/rearrests overall.

### Legislative Priority 3: **Surety Bond forfeiture reporting for public safety**

Description: Surety Agents are backed by large insurance companies throughout the State of Texas. These agencies have no public reporting requirements for their fee scheme, public safety rates, or actual forfeiture amounts and amounts actually paid/collected by the Counties they operate in. This lack of transparency presents a public safety danger and lack of financial responsibility to the State and County's these agents operate in since a surety agent bond cannot be forfeited when an individual commit's a new law violation – **which is a significant public safety risk since those eligible for surety bonds include all "violent" charges by state statute.**

Policy Recommendation: SB 6 (87th Leg) created new reporting requirements for the entire state in regards to the offenses being arrested, the types of bonds set, when bail is denied, and the bail amounts by type. At minimum, one additional element should be added to this report as shown below. The PSRS already shows the billions of dollars in bond issued yearly in Texas; however, this additional stat would show how much is recovered by the counties for forfeiture of surety bonds related to failures to appear in court.

Add the following:

Art. 17.021. PUBLIC SAFETY REPORT SYSTEM.

(e)...

- (4) The number, type and amount of bonds posted
- The total number of surety bonds forfeited
- The total amount collected by County for surety forfeiture
- The total number of bonds surrendered by surety before next court appearance



## Legislative Priority 4: **Preventive Detention Updates**

**Description:** The Texas Constitution (Article 1 Section 11) already allows for pretrial preventive detention in limited circumstances as well as new situations under SB 6 (Art 17.027). Specifically, Federal preventive detention is authorized by 18 U.S. Code § 3142 - (e)(f)(g).

**Policy Recommendation:** Anything brought before the legislature for consideration should follow the Federal Statute regarding preventive detention (e), providing for a detention hearing(f), and all the factors to be considered (g) and should not be more restrictive.

Denial of bail for this specific statute or any further expansion should be reported independently through the PSRS/OCA system as a new category so outright bail denial determinations can be publicly available.

Defendants charged with a violent crime who are released on bond shall be eligible for preventive detention if they violate conditions of the bond and the bond is subsequently revoked.

## Legislative Priority 5: **Surety Bond Minimum Fee**

Description: Anyone utilizing a surety agent to post bond pay a significant fee to do so. These fees are not set or regulated at this time and can range widely depending on the agency. This is a public safety issue as well since all current violent charges are only eligible for bond through Cash or Surety options.

Policy Recommendation: These fees should be set by statute at 10%.

Add the following:

Art. 17.06. CORPORATION AS SURETY

(1) Surety agents or agencies providing bond for a defendant must collect at least 10% of the bond amount ordered.



## Legislative Priority 6: **Bond Refunds**

Description: Anyone utilizing a personal bond or surety agent to post bond pay a significant fee to do so. These fees are also non-refundable, regardless of the outcome of an individual's case.

Policy Recommendation: These fees should be refundable in part if the individual's case is not filed/dismissed/declined or a person is found not guilty (outside of a plea agreement). The only reason a defendant posts bond is to ensure compliance with court appearance. Also, the standard an individual is arrested is based upon a probable cause arrest, not under clear and convincing evidence and their case is now moot. This would include any type of payment plan or leverage used against property to secure an individual release from custody in which their case was not filed/dismissed/declined or a person is found not guilty (outside of a plea agreement).

Add the following:

Art. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND

(2) the refund of any fee including personal/surety bond, or all funds/property used to pay towards monetary bond in which a person's case is not filed/dismissed/declined to prosecute or found not guilty (outside of a plea agreement); and

(3) the application of those cash funds to the defendant's outstanding court costs, fines, and fees.

## Legislative Priority 7: **Setting a term of days for the State to share data for research studies**

Description: Last session legislation passed requiring the State to share DPS and justice data for local governments and researchers like they had always done in the past. However, since the legislation did not include a timeline requirement, the State is using indefinite timelines and has yet to share important justice data.

Policy Recommendation: The State should be required to share the requested data within 30 days of a request. This timeline should be reasonable since in years past they often shared the data within one week.

Add the following: HB1184

SECTION 1. Section 411.083(b), Government Code, is amended to read as follows:

(b) The department shall grant access to criminal history record information **within 30 days of request** to:....



Legislative Priority 8: **Grant District Courts general jurisdiction to resolve all criminal cases.**

Description: To improve efficiency and consistency in the justice system, many states have general jurisdiction courts that may hear misdemeanor and felony charges in the same case or related to the same defendant. This avoids duplicative investigations, prosecutions, attorney costs and court hearings.

Policy Recommendation: Allow District courts who have pending felonies to resolve pending misdemeanors in the same court. For efficiency purposes, all pending cases should be assigned to the same court, so the same attorneys can work on consistent and efficient plea agreements or trials.

Understanding this would be a complex change to justice processes, consider assigning an evaluation committee to evaluate the potential and make legislative recommendations.

Add the following: This change would affect a variety of statutes, so there needs to be a complete analysis. The recommendation would be to conduct a study of all criminal level cases in which this applies and determine if court efficiency could be achieved by new legislation.

### Legislative Priority 9: **Set statutory timelines for benchmark's in case processing**

Description: Currently under Texas law, only the prosecutor has any timelines set for case processing, but they often rely on local law enforcement for evidence and case reports so a filing can be determined/made. This can take weeks and months for prosecutors to file charges, depending on the severity of the charge. This process is also extended by a lack of consensus in the number of court hearings needed to resolve cases, especially when reported dismissals are as high as 55%. While the case goes through the system, some jurisdictions have hundreds of individuals incarcerated who have not been charged by a prosecutor for a crime. For purposes of improving justice administration and managing the County jail populations, the legislature should consider the balance of the competing public interests of public safety and the presumption of innocence. This process should be studied in order to become more efficient in the interest of justice.

Policy Recommendation: Statewide study to determine better efficiency in the reporting of charges, time to file charges, and time to disposition for similar crimes across Texas.

Add the following: Provide clarity in existing statutes in the interest of justice and maintaining a defendants 5<sup>th</sup> and 6<sup>th</sup> Amendment rights.



**Legislative Idea 10: Support legislation that provides resources for competency restoration and provides for reasonable timelines to resolution. Support limitations of incarceration on those who are mentally disabled and are poor.**

Description: As Texas jails are facing overcrowding and understaffing, many Texans remain incarcerated simply because they are too poor to afford a bond and are deemed "incompetent" for trial, even in circumstances where they are charged with misdemeanors and have no violent history. There are thousands of individuals awaiting competency restoration in Texas jails. Some of these individuals have been incarcerated for years, and state backlogs are chronic. Restoring competency and bringing these cases to a speedier conclusion is in the public interest.

Policy Recommendation: Support legislative initiatives that enhance competency restoration locally by funding and appropriate release conditions/supervision.

Add the following: Anyone charged with a misdemeanor who is deemed incompetent must be released on a PR bond within 7 days of incarceration if they have no history of violence and are not charged with a violent misdemeanor. Anyone charged with a non-violent felony with no history of violent crime must be released on a PR bond within 30 days of incarceration if they have no history of violence and are not charged with a violent Felony.

**Legislative Priority 11: Commission a study for the effectiveness for Electronic Monitoring (GPS/Home Detention) and other Technology as a bond condition in the Pretrial phase.**

Description: Electronic Monitoring (EM) is routinely stated as a way help jail overcrowding issues across the State of Texas. However, the over utilization of this option with the Pretrial population has instead led to more people being on Electronic Monitoring vs. more people being released from jail, with no justification or evidenced based reasoning behind EM usage. There is also a lack of knowledge about how to best apply these limited options in the best circumstances to protect victims of Domestic Violence.

Policy Recommendation: Complete a study regarding the conditioning and effectiveness of utilizing Electronic Monitoring in the Pretrial population for court appearance, court compliance and public safety versus those defendants not utilizing it for the same/similar cases. This study should be completed to identify a limited scope of evidence-based utilization across the state to stop overuse of the second most expensive type of monitoring and provide a better sense of public safety. This would also allow updated Judicial Training in the knowledge of protective tools/apps for domestic violence bond conditions.



## Legislative Priority 12: **Amend the Code of Criminal Procedure 17.441 to allow for updated technology and considerations**

Description: Article 17.441 provides conditions for a defendant needing a motor vehicle ignition interlock device, but not allowing for hand-held alcohol monitoring devices due to a defendant not owning or operating a motor vehicle after the incident. Some jurisdictions also cannot make changes to bond conditions until after the statutory limit of 30 days has passed and may inadvertently cause them to be out of compliance with no way to gain compliance before the case is filed or their first appearance.

A hand-held alcohol monitor device can be utilized when a defendant does not own or have access to a vehicle as well as the option of drug testing specifically for alcohol.

Policy Recommendation: Update the law to include the option of utilizing other alcohol monitoring devices or testing as available for those defendants without a vehicle at the time of Magistration.

Add the following:

Art 17.441 CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK

(2) not operate any motor vehicle unless the vehicle is equipped with that device; **OR**

(3) **Require alternate electronic or drug testing for the presence of alcohol for those defendants who have completed an affidavit of no driving.**

## **Legislative Priority 13: Amend Penal Code Chapter 22 and move domestic and intimate partner charges to its own section**

Description: Chapter 22 covers a wide range of assaultive offenses by nature, but can be very confusing to reference and determine which codes cover which type of assault. This also makes it hard for the public to view any transparent data regarding the prevalence of Domestic Violence/Intimate Partner Violence offenses vs. other offenses against a person.

Policy Recommendation: Create Section 22.13 and move all Domestic/Intimate Partner Violence charges to this new code. This would also allow easy record keeping through the PSRS.

Add the following:

**Sec. 22.13. Domestic/Intimate Partner Violence Assaultive Offenses**