**Handout 1: Denial of Bail**

Bail may be denied by a district judge under Art. I, Sec. 11a of the Constitution if the defendant:

* + Is accused of a capital offense;
  + Has two prior felony convictions;
  + Is accused of a new felony while on bond for a previous felony;
  + Has a previous felony conviction and is now charged with a felony involving a deadly weapon; **or**
  + Is accused of a violent or sexual offense while under the supervision of a criminal justice agency or political subdivision for a prior felony.

Art. 1, Section 11a defines “violent offense” as: murder, aggravated assault, if the accused used or exhibited a deadly weapon during the assault, aggravated kidnapping, or aggravated robbery. It defines “sexual offense” as aggravated sexual assault, sexual assault, or indecency with a child.

Bail may also be denied by a judge or magistrate if a defendant is accused of an offense involving family violence, and after being released on bail, their bail is revoked or forfeited for a violation of a bond condition, and the judge or magistrate finds after a hearing that the bond condition related to the safety of a victim of the alleged offense or the safety of the community. Texas Constitution Art. I, Sec. 11b; Art. 17.152, CCP.

And if a defendant is charged with a felony offense committed against a child younger than 14 years of age under Chapter 21 (Sexual Offenses), Section 25.02 (Prohibited Sexual Conduct), Section 43.25 (Sexual Performance by a Child), Section 20A.02 (Trafficking of Persons) (in certain cases) or Section 43.05(a)(2) (Compelling Prostitution), Penal Code, they may be held without bail if a judge or magistrate determines after a hearing that the defendant violated a bond condition related to the safety of a victim of the alleged offense or the safety of the community. Texas Constitution Art. I, Sec. 11b; Art. 17.153, CCP.

**Handout 2: When Sheriff, Peace Officer or Jailer May Take Bail**

A sheriff, peace officer or jailer may “take the defendant’s bail” in a misdemeanor case when the defendant is in custody. Before taking bail the sheriff, peace officer or jailer must obtain the defendant’s criminal history record information.

A sheriff, peace officer or jailer may make a bail decision for a defendant charged with a fine only misdemeanor without considering the defendant’s criminal history record information.

A sheriff, peace officer or jailer may not set the amount of the defendant’s bail if the defendant is charged with or has been previously convicted of an offense involving violence but they may take the defendant’s bail in the amount set by the court.

-- Art. 17.20, CCP

A sheriff, peace officer or jailer may take bail in a felony case when the defendant is in custody and the court is not in session, in the amount set by the court or magistrate, or if no amount has been set, then in any amount that the officer considers reasonable and that is in compliance with Art. 17.15.

Before taking bail the sheriff, peace officer or jailer must obtain the defendant’s criminal history record information.

A sheriff, peace officer or jailer may not set the amount of the defendant’s bail if the defendant is charged with or has been previously convicted of an offense involving violence but they may take the defendant’s bail in the amount set by the court.

-- Art. 17.22, CCP