

Handout 1: OCA Form

OCA Form:

OCA must develop a form to be completed by a magistrate, judge, sheriff, peace officer or jailer for a defendant charged with a Class B misdemeanor or higher.

The form must state:

- the cause number, if available;
- the defendant's name and dob;
- the offense for which the defendant was arrested;
- the name and office of the person setting bail;
- the bail type, the amount of bail and any conditions of bail.

It must certify that they considered each factor in Art. 17.15 and the information provided by the public safety report system.

It must be electronically signed by the person setting bail.

It must be sent to OCA no later than 72 hours after an order setting bail.

-- Section 72.038, Government Code

Handout 2: 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 3: Offense Involving Violence

Art. 17.03(b-3)(2): "Offense involving violence" means an offense under the following provisions of the Penal Code:

- (A) Section [19.02](#) (murder);
- (B) Section [19.03](#) (capital murder);
- (C) Section [20.03](#) (kidnapping);
- (D) Section [20.04](#) (aggravated kidnapping);
- (E) Section [20A.02](#) (trafficking of persons);
- (F) Section [20A.03](#) (continuous trafficking of persons);
- (G) Section [21.02](#) (continuous sexual abuse of young child or disabled individual);
- (H) Section [21.11](#) (indecenty with a child);
- (I) Section [22.01](#)(a)(1) (assault), if the offense is:
 - (i) punishable as a felony of the second degree under Subsection (b-2) of that section; or
 - (ii) punishable as a felony and involved family violence as defined by Section [71.004](#), Family Code;
- (J) Section [22.011](#) (sexual assault);
- (K) Section [22.02](#) (aggravated assault);
- (L) Section [22.021](#) (aggravated sexual assault);
- (M) Section [22.04](#) (injury to a child, elderly individual, or disabled individual);
- (N) Section [25.072](#) (repeated violation of certain court orders or conditions of bond in family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case);
- (O) Section [25.11](#) (continuous violence against the family);
- (P) Section [29.03](#) (aggravated robbery);
- (Q) Section [38.14](#) (taking or attempting to take weapon from peace officer, federal special investigator, employee or official of correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer);
- (R) Section [43.04](#) (aggravated promotion of prostitution), if the defendant is not alleged to have engaged in conduct constituting an offense under Section [43.02](#)(a);
- (S) Section [43.05](#) (compelling prostitution); or
- (T) Section [43.25](#) (sexual performance by a child).

Handout 4: Statutes Relating to Certain Offenses

Assault: Section [22.01](#)(a)(1), Penal Code;

Deadly Conduct: Section [22.05](#), Penal Code;

Terroristic Threat: Section [22.07](#), Penal Code;

Disorderly Conduct involving Firearm: Section [42.01](#)(a)(7) or (8), Penal Code

Handout 5: 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

Handout 6: Effective Dates

Effective Dates:

Changes apply to a person arrested on or after the effective date of the Act.

The effective date is January 1, 2022, except as otherwise provided.

The effective date is December 2, 2021 for:

- Art. 17.021 (Public Safety Report System);
- Art. 17.024 (Training Requirements);
- Art. 17.02 (minor changes to definition of bail bond);
- Section 73.028, Govt. Code (OCA form);
- Section 117.055, Local Govt. Code (fee deduction);
- Repeal of Art. 17.03(f).

But OCA has until April 1, 2022, to create the Public Safety Report System and any related forms and materials.

Judges in office as of April 1, 2022 have until December 1, 2022 to meet the training requirements.