

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 7. PROCEEDINGS BEFORE MAGISTRATES TO PREVENT OFFENSES

Art. 7.01. SHALL ISSUE WARRANT. Whenever a magistrate is informed upon oath that an offense is about to be committed against the person or property of the informant, or of another, or that any person has threatened to commit an offense, the magistrate shall immediately issue a warrant for the arrest of the accused; that he may be brought before such magistrate or before some other named in the warrant.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.02. APPEARANCE BOND PENDING PEACE BOND HEARING. In proceedings under this Chapter, the accused shall have the right to make an appearance bond; such bond shall be conditioned as appearance bonds in other cases, and shall be further conditioned that the accused, pending the hearing, will not commit such offense and that he will keep the peace toward the person threatened or about to be injured, and toward all others, pending the hearing. Should the accused enter into such appearance bond, such fact shall not constitute any evidence of the accusation brought against him at the hearing on the merits before the magistrate.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.03. ACCUSED BROUGHT BEFORE MAGISTRATE. When the accused has been brought before the magistrate, he shall hear proof as to the accusation, and if he be satisfied that there is just reason to apprehend that the offense was intended to be committed, or that the threat was seriously made, he shall make an order that the accused enter into bond in such sum as he may in his discretion require, conditioned that he will not commit such offense, and that he will keep the peace toward the person threatened or about to be injured, and toward all others named in the bond for any period of time, not to exceed one year from the date of the bond. The magistrate shall admonish the accused that if the accused violates a condition of the bond, the court, in addition to ordering

forfeiture of the bond, may punish the accused for contempt under Section 21.002(c), Government Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1997, 75th Leg., ch. 773, Sec. 1, eff. Sept. 1, 1997.

Art. 7.04. FORM OF PEACE BOND. Such bond shall be sufficient if it be payable to the State of Texas, conditioned as required in said order of the magistrate, be for some certain sum, and be signed by the defendant and his surety or sureties and dated, and the provisions of Article 17.02 permitting the deposit of current United States money in lieu of sureties is applicable to this bond. No error of form shall vitiate such bond, and no error in the proceedings prior to the execution of the bond shall be a defense in a suit thereon.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.05. OATH OF SURETY; BOND FILED. The officer taking such bond shall require the sureties of the accused to make oath as to the value of their property as pointed out with regard to bail bonds. Such officer shall forthwith deposit such bond and oaths in the office of the clerk of the county where such bond is taken.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.06. AMOUNT OF BAIL. The magistrate, in fixing the amount of such bonds, shall be governed by the pecuniary circumstances of the accused and the nature of the offense threatened or about to be committed.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.07. SURETY MAY EXONERATE HIMSELF. A surety upon any such bond may, at any time before a breach thereof, exonerate himself from the obligations of the same by delivering to any magistrate of the county where such bond was taken, the person of the defendant; and such magistrate shall in that case again require of the defendant bond, with other security in the same amount as the first bond; and the same proceeding shall be had as in the first

instance, but the one year's time shall commence to run from the date of the first order.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.08. FAILURE TO GIVE BOND. If the defendant fail to give bond, he shall be committed to jail for one year from the date of the first order requiring such bond.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.09. DISCHARGE OF DEFENDANT. A defendant committed for failing to give bond shall be discharged by the officer having him in custody, upon giving the required bond, or at the expiration of the time for which he has been committed.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.10. MAY DISCHARGE DEFENDANT. If the magistrate believes from the evidence that there is no good reason to apprehend that the offense was intended or will be committed, or that no serious threat was made by the defendant, he shall discharge the accused, and may, in his discretion, tax the cost of the proceeding against the party making the complaint.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.13. WHEN THE DEFENDANT HAS COMMITTED A CRIME. If it appears from the evidence before the magistrate that the defendant has committed a criminal offense, the same proceedings shall be had as in other cases where parties are charged with crime.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.14. COSTS. If the accused is found subject to the charge and required to give bond, the costs of the proceedings shall be adjudged against him.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.15. MAY ORDER PROTECTION. When, from the nature of the case and the proof offered to the magistrate, it may appear necessary and proper, he shall have a right to order any peace

officer to protect the person or property of any individual threatened; and such peace officer shall have the right to summon aid by requiring any number of citizens of his county to assist in giving the protection.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.16. SUIT ON BOND. A suit to forfeit any bond taken under the provisions of this Chapter shall be brought in the name of the State by the district or county attorney in the county where the bond was taken.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.17. LIMITATION AND PROCEDURE. Suits upon such bonds shall be commenced within two years from the breach of the same, and not thereafter, and shall be governed by the same rules as civil actions, except that the sureties may be sued without joining the principal. To entitle the State to recover, it shall only be necessary to prove that the accused violated any condition of said bond. The full amount of such bond may be recovered of the accused and the sureties.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 7.18. CONTEMPT. Violation of a condition of bond imposed under this chapter is punishable by:

- (1) forfeiture of the bond;
- (2) imposition of the fine and confinement for contempt under Section [21.002\(c\)](#), Government Code; or
- (3) both forfeiture of the bond and imposition of the fine and confinement.

Added by Acts 1997, 75th Leg., ch. 773, Sec. 2, eff. Sept. 1, 1997.