



28 (2) Any person who may be admitted to bail may be released either on his own  
29 recognizance or upon posting bail, on condition that he appear in court for future court  
30 proceedings in the case, and on any other conditions imposed in the discretion of the magistrate  
31 or court that will reasonably:

- 32 (a) ensure the appearance of the accused;
- 33 (b) ensure the integrity of the court process;
- 34 (c) prevent direct or indirect contact with witnesses or victims by the accused, if  
35 appropriate; and
- 36 (d) ensure the safety of the public.

37 (3) The initial order denying or fixing the amount of bail shall be issued by the  
38 magistrate or court issuing the warrant of arrest or by the magistrate or court presiding over the  
39 accused's first judicial appearance. A person arrested for a violation of a criminal protective  
40 order issued pursuant to Section 77-36-2.5 may not be released prior to the accused's first  
41 judicial appearance.

42 (4) The magistrate or court may rely upon information contained in:

- 43 (a) the indictment or information;
- 44 (b) any sworn probable cause statement;
- 45 (c) information provided by any pretrial services agency; or
- 46 (d) any other reliable record or source.

47 ~~[(4)]~~ (5) A motion to modify the initial order may be made by a party at any time upon  
48 notice to the opposing party sufficient to permit the opposing party to prepare for hearing and  
49 to permit any victim to be notified and be present. Hearing on a motion to modify may be held  
50 in conjunction with a preliminary hearing or any other pretrial hearing. The magistrate or court  
51 may rely on information as provided in Subsections ~~[(3)]~~ (4)(a) through (d) and may base its  
52 ruling on evidence provided at the hearing so long as each party is provided an opportunity to  
53 present additional evidence or information relevant to bail.

54 ~~[(5)]~~ (6) Subsequent motions to modify bail orders may be made only upon a showing  
55 that there has been a material change in circumstances.

56 ~~[(6)]~~ (7) An appeal may be taken from an order of any court denying bail to the  
57 Supreme Court, which shall review the determination under Subsection (1).

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**Legislative Review Note**  
as of 12-5-02 5:29 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Expansion of Protective Order***09-Jan-03***Bill Number HB0057***4:52 PM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**