

SB 6 – Judicial Council Monthly Court Activity Report Requirements

Government Code, Sec 71.0351- Bail and Pretrial Release Information (Section 16, Senate Bill 6, 87th Legislature, 1st Called Session)

Effective April 1, 2022

The clerk of each court setting bail in criminal cases shall report:

- (1) The number of defendants for whom bail was set after arrest, including:**
- A. the number for each category of offense**
 - B. the number of personal bonds; and**
 - C. the number of surety or cash bonds.**

Notes:

- County and district clerks will not be reporting these data elements given that:
 - In most cases, magistration activity occurs before prosecution files a case.
 - Magistration arrangements vary by jurisdiction and bail may be set by a variety of officials depending on local rules – judges, judges acting as magistrates, magistrates employed by a local jurisdiction or even a jailer, sheriff, or other peace officer.
 - Case management systems are designed to capture information at the time of case filing, so district clerks and county clerks would not be able to report this information unless a case was filed.
- Justices of the peace, municipal courts, and other magistrates will not be reporting these data elements given that:
 - Magistration arrangements vary by jurisdiction and bail may be set by a variety of officials depending on local rules – judges, judges acting as magistrates, magistrates employed by a local jurisdiction or even a jailer, sheriff, or other peace officer.
 - While there is a system established on the Judicial Council monthly reports for capturing magistrate activity from justice or municipal court judges acting as magistrates, reporting is incomplete and data quality is poor due to lack of processes and systems to collect the information, which must often be tracked manually.
 - There is no established system for collecting data from other magistrates, jailers, or other peace officers.
- Although Government Code Section 71.0351(a)(1)(A-C) requires the clerk of each court setting bail in criminal cases to report the number of defendants for each category of offense, the number of personal bonds, and the number of surety or cash bonds, this **information will instead be captured from the Bail Form information submitted through the Office of Court**

Administration's Public Safety Report System established by Article 17.021, Code of Criminal Procedure.

The Office of Court Administration is required by Government Code Section 72.038 to promulgate a bail form containing the following information:

Sec. 72.038. BAIL FORM. (a) The office shall promulgate a form to be completed by a magistrate, judge, sheriff, peace officer, or jailer who sets bail under Chapter 17, Code of Criminal Procedure, for a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense.

(b) The form must:

(1) state the cause number of the case, if available, the defendant's name and date of birth, and the offense for which the defendant was arrested;

(2) state the name and the office or position of the person setting bail;

(3) require the person setting bail to:

(A) identify the bail type, the amount of the bail, and any conditions of bail;

(B) certify that the person considered each factor provided by Article 17.15(a), Code of Criminal Procedure; and

(C) certify that the person considered the information provided by the public safety report system developed under Article 17.021, Code of Criminal Procedure; and

(4) be electronically signed by the person setting the bail.

(c) The person setting bail, an employee of the court that set the defendant's bail, or an employee of the county in which the defendant's bail was set must promptly and electronically provide the form required under this section to the office on completion of the form.

(d) The office shall:

(1) publish each form submitted under this section in a database that is publicly accessible on the office's Internet website; and

(2) enter the submitted form into the public safety report system developed under Article 17.021, Code of Criminal Procedure.

As explained below, a case would likely be reported in multiple categories. To avoid duplication, report the case in the category of violation for which the warrant was issued (failure to appear or other violation of condition of release). If relevant, also report any case involving a new offense while the defendant was out on bail or on community supervision if the information is available.

- This data element potentially overlaps with item 2 given that a failure to appear may result in new charge of failure to appear being filed. It also potentially overlaps with the item 3 given that committing an offense while released on bail or community supervision also violates the condition of release. A general condition of a bond is usually:

Defendant shall not commit, be charged with, or be arrested for the commission of any subsequent criminal offense in violation of the laws of the State of Texas, any other state, or of the United States.

As a result, the same event might be reported under (2), (3) and (4), resulting in duplicative reporting.

The clerk of each court setting bail in criminal cases shall report:

(2) the number of cases in which defendants released on bail subsequently failed to appear.

Notes:

- This data element will be reported by district and county clerks.
- Case management systems and the Judicial Council court activity reports are designed to track **cases**, not defendants, so case events will be the unit of count rather than defendants.
- Issuance of an arrest warrant for a Failure to Appear should trigger a case to be reported in the Additional Activity section of the Criminal report. To differentiate a warrant for failure to appear from other warrants, it is recommended that clerks and case management system establish a separate code/form for warrants involving failure to appear.

The clerk of each court setting bail in criminal cases shall report:

(3) the number of cases in which defendants released on bail subsequently violated a condition of release.

Notes:

- This data element will be reported by district and county clerks.

- Case management systems and the Judicial Council court activity reports are designed to track **cases**, not defendants, so case events will be the unit of count rather than defendants.
- This data element potentially overlaps with item 2 given that a failure to appear may be a violation of bond conditions and would currently only be captured if a defendant is re-arrested during the pendency of a case. Determination of the need for rearrest would be made by the judge. Reporting for this data element would depend on the issuance of a warrant for arrest for violation of bond condition(s). To avoid duplication, report based on the highlighted guidelines below.
- Issuance of an arrest warrant for Violation of Bond Conditions, not related to failure to appear or the commission of a new offense, should trigger a case to be reported in the Additional Activity section of the Criminal report. To differentiate a warrant for violation of bond conditions from other warrants, it is recommended that clerks and case management system establish a separate code/form for warrants involving violation of bond conditions other than failure to appear.
- Data quality considerations:
 - Information about a violation of a condition of release must be reported to the clerk by the prosecutor's office, probation department or the bondsman as the clerk does not have access to this information.
 - Determination of the need for rearrest is made by the judge. If there is not a warrant issued, there will be no case to report for this item.

The clerk of each court setting bail in criminal cases shall report:

(4) the number of cases in which defendants committed an offense while released on bail or community supervision.

Notes:

- This data element will be reported by district and county clerks.
- Case management systems and the Judicial Council court activity reports are designed to track **cases**, not defendants, so case events will be the unit of count rather than defendants.
- This data element potentially overlaps with item 2 given that a failure to appear may result in new charge of failure to appear being filed. It also potentially overlaps with the item 3 given that committing an offense while released on bail or community supervision also violates the condition of release. A general condition of a bond is usually:

Defendant shall not commit, be charged with, or be arrested for the commission of any subsequent criminal offense in violation of the laws of the State of Texas, any other state, or of the United States.

As a result, the same event might be reported under (2), (3) and (4), resulting in duplicative reporting. To avoid duplication, report based on the highlighted guidelines below.

- While the defendant is released on bail or community supervision, issuance of an arrest warrant for a **new offense other than a failure to appear or an arrest warrant for violation of bond conditions** should trigger a case to be reported in the Additional Activity section of the Criminal report. To differentiate a warrant for a new offense from a warrant for failure to appear or a warrant for violation of bond, it is recommended that clerks and case management system establish a separate code/form for warrants involving a new offense committed while on bail or community supervision.

It is understood that a warrant for a new offense is typically issued by a magistrate and that a district or county clerk will not have access to that information. If your case management system can capture the occurrence of a defendant committing a new offense while out on bond for a pending offense, the new case(s) should be reported in this category.

- Data quality considerations:
 - A clerk will likely not have information about a defendant committing a new offense since a warrant for a new offense is typically issued by a magistrate, not by a district or county court. Since case management systems are designed to capture information at the time of case filing, a clerk would not be able to report this information unless a case was filed in the same county and court level (felony or misdemeanor).