

BILL ANALYSIS

H.B. 1574
By: Wilson
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerned observers note confusion concerning the process by which a magistrate is to determine if probable cause existed for a person's arrest by a police officer without a warrant. H.B. 1574 seeks to clarify this issue by requiring a police officer who arrests a person without a warrant to prepare and provide an affidavit containing a statement of the probable cause for the arrest.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1574 amends the Code of Criminal Procedure to require a peace officer who arrests a person without a warrant, as soon as practicable but before the person is taken before a magistrate, to prepare an affidavit containing a statement of the probable cause for the arrest and either file the affidavit with the magistrate before whom the defendant is to be taken or give the affidavit to the officer to whom custody of the person is transferred. The bill requires the affidavit to be in writing or provided orally to the applicable magistrate and recorded. The bill includes the absence of such a filed affidavit as a condition that triggers the required release of a person who is arrested for a misdemeanor without a warrant and detained in jail on bond in an amount not to exceed \$5,000, not later than the 24th hour after the person's arrest, with certain exceptions.

EFFECTIVE DATE

September 1, 2017.