

SUBJECT: Power of peace officers and members of public to arrest

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 5 ayes — Oakley, Bailey, Allen, Carter, Edwards
0 nays
4 absent — Driver, Luna, Madden, McCoulskey

WITNESSES: For — Sam Nuchia, Houston Police Department; Tom Martin, Texas Police Chiefs Association
Against — None
On — Wayne Green, TCLEOSE

DIGEST: HB 2614 would change the Code of Criminal Procedure to provide that it is every peace officer's duty to preserve the peace within the entire state and not just in the officer's jurisdiction. It would also require an officer to give notice to a magistrate in any county in which the officer believes a Penal Code violation to have occurred, even if committed outside the officer's jurisdiction.

The bill would also allow any person, instead of just a peace officer, to arrest an offender if a felony or breach of public peace occurred within view or in the person's presence.

The bill would allow a peace officer, regardless of whether the officer was certified by TCLEOSE, to arrest, without warrant, an offender in the officer's jurisdiction for any offense committed in the officer's presence or view.

The bill would allow a peace officer certified by TCLEOSE to arrest outside the officer's jurisdiction, without warrant, a person who committed any offense within the officer's presence or view except for traffic violations. The officer making the arrest would be required to notify a law

enforcement agency in the county where the arrest was made. The officer would then be required to take the person arrested before a magistrate.

The Local Government Code would be amended to add that a marshal has the duties granted or imposed by the Code of Criminal Procedure, including those outlined above and would give a marshal the same power and jurisdiction as a peace officer under the Code of Criminal Procedure.

The bill would take effect immediately if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

HB 2614 would allow peace officers certified by TCLEOSE the power to protect the public no matter where they may be. Jurisdictional limits on a TCLEOSE certified peace officer's ability to arrest an offender are outdated and do not serve the public's needs.

Many peace officers have complained that they have seen flagrant violations of the law occur before their eyes yet are powerless to arrest the offender. For instance, a peace officer following behind a clearly drunk driver could not arrest that driver because the offense is a misdemeanor. The law currently allows a peace officer outside of his jurisdiction to arrest only for a felony offense committed in officer's view.

This limitation is particularly outdated in view of the fact that all TCLEOSE certified officers receive the same extensive training and continuing education. There is no reason to treat them as if they were qualified to make arrest judgments in one jurisdiction but not in another.

**OPPONENTS
SAY:**

Allowing even TCLEOSE certified police officers to arrest outside of their jurisdiction for misdemeanor offenses might create confusion or cause conflict between different law enforcement agencies. For example, an ordinance might create an offense in one city but would not apply in another city.

In addition, expanding the arresting authority of an out-of-jurisdiction police officer seems unnecessary given that the officer could easily alert local law enforcement about a misdemeanor offense. Generally,

misdemeanor offenses are not dangerous to the public and after prompt notification could be quickly handled by local law enforcement.