

SUBJECT: Increasing the criminal penalty for evasion of arrest or detention

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Hinojosa, Garcia, Green, Smith, Wise
0 nays
4 absent — Dunnam, Keel, Nixon, Talton

SENATE VOTE: On final passage, May 19 — 29-0

WITNESSES: None

BACKGROUND: Under current law, a person commits a Class A misdemeanor if the person uses a vehicle to evade arrest or detention, and a repeat offense is a state jail felony. A Class A misdemeanor is punishable by up to one year in jail and/or a maximum fine of \$4,000. A state jail felony is punishable by up to 180 days to two years in a state jail and an optional fine of up to \$10,000. A third-degree felony is punishable by up to two to 10 years in prison and an optional fine of up to \$10,000.

DIGEST: SB 480 would amend the Penal Code to provide that evading arrest or detention is a state jail felony if the accused uses a vehicle while in flight and has not been convicted previously of this offense.

The offense would be charged as a third-degree felony if:

- ! the accused committed the offense after having been convicted of the offense previously; or
- ! another person was injured seriously as a direct result of a police officer's attempt to apprehend the accused while in flight.

The bill would take effect September 1, 1999, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY: An increase in the penalties for fleeing arrests, as proposed by SB 480, would help reduce the number of police pursuits. This bill would make Texas roads safer.

A person who flees police in a high-speed chase endangers both the police officer and other motorists and pedestrians. These pursuits also can cause severe property damage. Yet, under current law, a person who flees arrest for the first time potentially faces little or no jail time. The existing penalties offer minimal deterrence for would-be perpetrators who think they can flee pursuit and face only a slap on the wrist when caught. SB 480 would address this problem by requiring a first-time offense to carry the possibility of state jail time and a substantial fine. Offenders with prior convictions and those who caused serious injuries to others while in flight would face a longer prison sentence and even stiffer fines.

OPPONENTS SAY: Stiffer penalties rarely deter criminals who are attempting to evade arrest. A criminal who is evading police is probably guilty of another, possibly more severe, charge and is fleeing to avoid arrest on that charge. Increased penalties for evading arrest would look good on paper but would do little to deter further high-speed chases.

Police officers also should use more judgment in engaging in high-speed chases. It makes little sense to chase a carload of teenagers at speeds in excess of a 100 miles an hour when the underlying offense is a low-level misdemeanor. The degree of danger for other motorists and pedestrians can outweigh the justification for a chase in these situations. Better police training, rather than increased penalties, could result in fewer dangerous car chases.

NOTES: A similar bill, HB 3648 by Yarbrough, which would increase to a first-degree felony the penalty for causing the death of another when fleeing a police officer's attempt to apprehend the accused, was reported favorably by the House Criminal Jurisprudence Committee on May 7.