

SUBJECT: Closing public access to arrest warrants for a limited time

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Hinojosa, Dunnam, Keel, Talton, Green, Martinez Fischer, Shields
0 nays
2 absent — Garcia, Kitchen

WITNESSES: For — Charles G. Dunn, City of Houston, Mayor Lee P. Brown, Police Chief C. O. Bradford; Mark Clark, Houston Police Officers' Union, Dallas Police Association, Texas Union of Police and Sheriffs, Harris County Deputies' Organization, South Texas Organization of Police; *Registered but did not testify*: Chuck Noll, Harris County District Attorney's Office; Chris Heaton, Texas Municipal Police Association; Chris W. Jones, Combined Law Enforcement Agencies of Texas; Steve Lyons, Houston Police Department

Against — Scott Henson, American Civil Liberties Union of Texas; *Registered but did not testify*: William Harrell, American Civil Liberties Union of Texas; Michael Schneider, Texas Association of Broadcasters

On — Keith S. Hampton, Texas Criminal Defense Lawyers Association

BACKGROUND: The public currently has access to information in arrest warrants and related affidavits as soon as they are filed.

DIGEST: CSHB 1654 would add art. 15.265 to the Code of Criminal Procedure to allow nondisclosure to the public of some arrest warrants and related affidavits. Information in an arrest warrant issued by a magistrate would not be required to be disclosed to the public until the 30th day after issuance or the date the warrant was executed, whichever was earlier. The same would hold true for an affidavit filed with a magistrate in connection with the application for an arrest warrant. Disclosure to the public of information contained in an arrest warrant or affidavit would not be prohibited if:

- ! disclosure of the information to the public would assist in the arrest of the individual named in the warrant; or
- ! nondisclosure of the information to the public would jeopardize public safety.

This bill would not apply to warrants issued for a misdemeanor offense punishable by fine only or affidavits filed in connection with those warrants.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 1654 would assist law enforcement in apprehending suspects. Often, several days elapse between the date a warrant is issued and the day of arrest. Currently, information in warrants and related affidavits is available to the public as soon as the warrant is issued or the affidavit is filed. Bail bondsmen frequent county courts to get these records so that they can obtain clients. Recently, a Houston detective filed a felony warrant one evening, and when he went to arrest the suspect the following morning, the man had fled. Within hours after the detective had filed the warrant with the county clerk, a bonding agency contacted the suspect to ask if he wanted their services, thus tipping him off.

This bill would protect law enforcement officers and preserve evidence in criminal cases. CSHB 1654 would prevent suspects from being warned of their impending arrest so they could not fortify their location and cause harm to officers. In addition, suspects would no longer have time to destroy any evidence before police arrived.

This bill would protect persons who had warrants issued for their arrest after they failed to discharge a fine-only misdemeanor offense, such as a traffic ticket. They still would have access to records indicating a warrant had been issued, allowing them to learn of the warrant and take care of outstanding fines instead of facing arrest the next time a police officer pulled them over for speeding.

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OPPONENTS
SAY:

CSHB 1654 would not be the proper way to address the issue of bail bondsmen and others tipping off suspects before an arrest. Penal Code, art. 38.05 already makes it an offense, ranging from a class A misdemeanor to a third-degree felony to warn another person of his or her impending apprehension. This law should be enforced instead of creating a new law that limited access to public records. This bill improperly would close public records across the state to prevent a very narrow problem.

NOTES:

HB 1654 as filed would have kept warrants and related affidavits from being disclosed from the public until the third day after the warrant or affidavit was issued or filed or the date the warrant was executed, whichever was later.

The companion bill, SB 1261 by Brown, was referred to the Senate Jurisprudence Committee on March 12.