

SUBJECT: Making executed arrest warrants public information

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

WITNESSES: For — *Registered but did not testify:* Bob Barton, Texas Daily Newspaper Association and Texas Press Association; Keith S. Hampton, Texas Criminal Defense Attorneys Association; William Harrell and Scott Henson, American Civil Liberties Union of Texas; Charles C. Holt, Common Cause of Texas; Stephen Sanders, Texas State Lodge, Fraternal Order of Police; Michael Schneider, Texas Association of Broadcasters

Against — None

BACKGROUND: Code of Criminal Procedure, art. 15.26 requires an officer executing an arrest warrant to inform the accused under what authority the arrest is made. The officer does not need to have the warrant in his or her possession at the time of the arrest but must inform the defendant of the offense charged and of the fact that a warrant has been issued. Upon request, the officer must show the warrant to the defendant as soon as possible.

Art. 15.17 requires the officer making the arrest to take the defendant before a magistrate as soon as possible. The magistrate must inform the defendant in clear language of the accusation filed against him or her and of any affidavit filed in the court.

Current law does not define clearly who is required to hold the original paperwork filed for an arrest warrant — the peace officer making the arrest or the magistrate informing the accused of the warrant.

DIGEST: HB 511 would require an officer to show a defendant, on request, any affidavit presented to the magistrate in support of issuing a warrant. The arrest warrant and any corresponding affidavit would have to be held by the magistrate's clerk. As soon as the warrant was executed, the magistrate's

clerk would have to make a copy of the warrant and affidavit available for public inspection at the clerk's office during normal business hours.

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.