

SUBJECT: Authorizing city peace officers to make traffic arrests within the county

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Keel, Riddle, Denny, Escobar, Raymond, Reyna

0 nays

3 absent — Pena, Hodge, P. Moreno

SENATE VOTE: On final passage, April 7 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 915:*)

For — Gary Adams, University Park Texas, Texas Police Chiefs Association, North Texas Police Chiefs Association; Dave Barber, Texas Police Chiefs Association; Gary M. Brye, Southeast Texas Law Enforcement Administrators Association; Tom Gaylor, Texas Municipal Police Association; James Jones, Houston Police Department.

Against — None

On — Shannon Edmonds, Texas District and County Attorneys Association; Douglas C. Kunkel, Texas Department of Public Safety Narcotics Service.

BACKGROUND: Under Code of Criminal Procedure, art. 14.03(g), certain licensed peace officers – sheriffs and deputies, constables and deputies, city police or marshals, Department of Public Safety (DPS) officers, and district attorney investigators — may make an arrest without a warrant outside that officer's jurisdiction if the offense is committed within the officer's presence. However, only DPS officers may arrest outside of their jurisdiction for fine-only traffic offenses.

As soon as practicable after making such an arrest, officers must notify a law enforcement agency with jurisdiction over where the arrest was made. The agency must take custody of the person committing the offense and take the person before a magistrate.

DIGEST: CSSB 907 would amend Code of Criminal Procedure, art. 14.03(g), to authorize licensed municipal police officers and marshals to make warrantless arrests for traffic offenses anywhere in the county or counties where the municipality employing the officer was located. The offense would have to be committed within the officer's view or presence for the officer to make the arrest. The bill also would delete the reference to DPS officers making warrantless arrests outside of their jurisdiction.

In addition to taking custody of the person arrested, the local law enforcement agency with jurisdiction where the arrest was made would have to take custody of any items seized by the arresting officer during or after the arrest as if the property had been seized by an officer of that jurisdiction.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: By giving city police officers and marshals countywide jurisdiction to make traffic arrests, CSSB 907 would further an officer's ability to ensure public safety and curb illegal activity.

Many cities share streets and have contiguous borders. As a result, officers routinely cross over into other cities either unintentionally or in the course of patrolling a city street. Because the law does not allow city peace officers to make traffic arrests outside the city limits, officers who view illegal traffic activity in another jurisdiction essentially are forced to ignore it. CSSB 907 would enable an officer to stop known illegal activity when it occurred just outside the officer's jurisdiction.

For instance, an officer may notice a speeding driver while patrolling that officer's jurisdiction. If the driver were just outside the officer's city limits, current law would prevent the officer from pulling the offender over even though the driver could cause serious injury to himself or others. CSSB 907 would enable officers to stop such activity before someone was injured or killed.

The bill also would prevent the exclusion of important evidence in a criminal case. If an officer discovers evidence of criminal activity in a routine traffic stop inadvertently made in an adjacent city, the evidence is inadmissible in court. By giving police officers countywide jurisdiction to make traffic stops, this bill would allow that evidence to be used to prove a criminal offense.

The bill would not make it more difficult to hold police accountable for their actions. Police officers would be accountable to at least two agencies: their employing municipality and local law enforcement in the jurisdiction where the arrest was made. Moreover, the bill would require that the officers turn over the people in their custody and items seized to local authorities as soon as practicable, ensuring that local law enforcement, rather than the arresting officer, handled the matter to the extent possible.

CSSB 907 also would remove the reference in Code of Criminal Procedure, art. 14.03(g), to DPS officers making warrantless arrests outside their jurisdiction. This simply would clarify the law because DPS officers already have such authority throughout the state. Under Government Code, ch. 411, DPS officers have statewide jurisdiction to make an arrest for any offense, including a traffic offense.

**OPPONENTS
SAY:**

CSSB 907 could make it difficult to ensure that police officers were held accountable for misconduct. Officers must operate under a clear chain of command so citizens have a clear avenue of redress in cases of questionable police conduct. If officers operated in more than one jurisdiction, the agency to which the officer was accountable would become unclear. This would open up the possibility of unchecked abuse of authority.

NOTES:

The committee substitute would limit to police officers and marshals the authority to make an arrest for a traffic offense outside an officer's jurisdiction. The original bill would have permitted sheriffs, constables, marshals, police officers, and investigators for district attorneys, county attorneys, and criminal district attorneys to make such arrests. The substitute also removed a section dealing with DPS officers and no longer would amend CCP, art. 59.03, on the seizure of contraband.

The companion bill, HB 915 by Woolley, passed the House on March 30 and was scheduled for a public hearing on May 17 before the Senate Criminal Justice Committee.