

SUBJECT: Delivery, modification, and withdrawal of a warrant of execution

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 11 ayes — Gallego, Christian, Fletcher, Hodge, Kent, Miklos, Moody,
Pierson, Riddle, Vaught, Vo

0 nays

SENATE VOTE: On final passage, April 24 — 30-0

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Edward Marshall, Office of the
Attorney General of Texas)

BACKGROUND: Under Code of Criminal Procedure, art. 43.15, when a person is sentenced to death, the clerk of the sentencing court must issue a warrant for the execution of the death sentence within ten days after the court sets the date of execution. The warrant must be delivered to the sheriff of the county in which the inmate was convicted, who must deliver it and the condemned person, if the person has not already been delivered, to the director of the Department of Corrections at Huntsville, Texas. The warrant must be directed to the director and must command the director to carry out the execution at the specified time and place.

DIGEST: SB 1173 would amend Code of Criminal Procedure, art. 43.15 to require the clerk of a sentencing court to send a copy of a warrant of execution by certified mail, return receipt requested, to the condemned person's attorney of record, if any, the prosecuting attorney with felony jurisdiction for the county in which the judgment of conviction was entered, and the attorney general.

If the warrant of execution was modified or withdrawn, the clerk would be required to send a copy of the modification or withdrawal order by certified mail, return receipt requested, to the Texas Department of

Criminal Justice (TDCJ) for delivery to the condemned person, in addition to the parties to whom the clerk was required to send the original warrant.

A court's failure to provide the warrant or its modification or withdrawal order to the specified parties would not invalidate a warrant of execution.

The clerk would have to command the director of the Correctional Institutions Division of TDCJ to carry the sentence into execution.

The bill would take effect September 1, 2009, and would apply only to warrants issued on after this date.

**SUPPORTERS
SAY:**

By requiring in death penalty cases that the court clerk send a copy of the warrant of execution and any modifications or withdrawals to parties other than the director of the Department of Corrections at Huntsville, SB 1173 would allow all involved parties to receive timely notice of an execution date. Under current law, the convicting court can set a subsequent execution date as little as 30 days after the order has been signed. The bill will help ensure timely notification of all involved parties and allow them adequately to prepare for any last-minute litigation.

**OPPONENTS
SAY:**

No apparent opposition.