

- SUBJECT:** Penalty for the offense of evading arrest or detention
- COMMITTEE:** Criminal Jurisprudence — favorable, with amendment
- VOTE:** 8 ayes — Gallego, Christian, Fletcher, Miklos, Moody, Riddle, Vaught, Vo
0 nays
3 absent — Hodge, Kent, Pierson
- SENATE VOTE:** On final passage, May 6 — 31-0
- WITNESSES:** (*On House companion bill, HB 2873:*)
For — Terry Donovan; Chris Jones, Combined Law Enforcement Associations of Texas; (*Registered, but did not testify:* Laura Andersen, San Antonio Police Department; Sam Center, Texas Game Warden Association; Mark Clark, Houston Police Officers' Union, Dallas Police Association; Tom Gaylor, Texas Municipal Police Association; James Jones, Houston Police Department; Ginger MacMicking, The 100 Club of Central Texas; Sean Mannix, Austin Police Department; Bernadette Ruiz; Joe Saldana, San Antonio Police Officers Association)

Against — None
- BACKGROUND:** Under Penal Code, sec. 38.04 a person commits the offense of evading arrest or detention by intentionally fleeing from someone the person knows is a peace officer attempting lawfully to arrest or detain that person.

An offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) unless the actor uses a vehicle while in flight, and the actor has no previous conviction of evading arrest or detention, in which case it is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).
- DIGEST:** SB 1176 would make the offense of evading arrest or detention a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). It also would make a state-jail felony (180 days to two years in a state jail

and an optional fine of up to \$10,000) evading arrest or detention if the actor had a previous conviction for evading arrest or detention.

As amended, the bill could be cited as the Amy Lynn Donovan Act.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after this date.

**SUPPORTERS
SAY:**

By enhancing the penalties for evading arrest or detention in certain cases, SB 1176 would deter offenders. Currently, if a person is engaged in the commission of a felony, the person may find it advantageous to flee and risk the lesser charge of evading arrest or detention rather than face punishment for the alleged felony. Enhanced penalties for a prior evading arrest or detention conviction would discourage repeat offenses.

Chasing a suspect is dangerous to the public and to peace officers. In fact, evading arrest can be just as dangerous as resisting arrest, if not more so. By discouraging this offense, SB 1176 would help protect those who risk their lives to enforce our laws.

**OPPONENTS
SAY:**

Enhancing the penalty for this offense would not be an effective deterrent. The cost of incarcerating offenders would be an additional financial burden, and would divert resources away from other important efforts, such as the probation system, that could do more to reduce recidivism.

NOTES:

The House companion bill, HB 2873 by Hunter, was reported favorably, as substituted, by the Criminal Jurisprudence Committee, and placed on the May 14 General State Calendar.