

- SUBJECT:** Requiring court reporters to transmit transcripts of certain habeas hearings
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Herrero, Carter, Canales, Hughes, Leach, Moody, Schaefer, Toth  
0 nays  
1 absent — Burnam
- WITNESSES:** For — Virginia Etherly, Dallas County District Clerk; Craig Pardue, Dallas County; (*Registered, but did not testify:* John Dahill, Texas Conference of Urban Counties; Gary Fitzsimmons, Dallas County District Clerk; Jim Jackson, Dallas County; Mark Mendez, Tarrant County; Allen Place, Texas Criminal Defense Lawyers Association)  
Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 11.07 governs the procedure for writs of habeas corpus after a felony conviction imposing a penalty other than death. Under art. 11.07, sec. 3, if the convicting court in such a case holds a hearing to resolve issues of material fact relating to the legality of the writ applicant's confinement, a court reporter is required to transcribe the hearing and prepare the transcript. After the convicting court makes a finding of fact under this section, the court clerk is required to transmit to the Court of Criminal Appeals all official records, including the transcript, used in resolving the issues of fact.
- DIGEST:** HB 833 would require the court reporter transcribing a hearing under Code of Criminal Procedure, art. 11.07(3) to transmit the transcript to the clerk of the convicting court immediately upon its completion.  
The bill would take effect September 1, 2013, and would apply only to applications for a writ of habeas corpus filed on or after that date.
- SUPPORTERS SAY:** HB 833 would clarify and close a loophole in current law. Court reporters are currently required to prepare certain habeas hearing transcripts but not

to transmit them to anyone, while the clerk of the convicting court is required to transmit all records, including the transcripts, to the Court of Criminal Appeals. Under the current system, court clerks can be held in contempt for not transmitting documents that they may not have in their possession.

Clerks often waste time and resources contacting court reporters and attempting to obtain the transcripts from them. Some court reporters are unclear about where to send transcripts once they are completed in these kinds of hearings. Some county clerks have encountered problems with court reporters transmitting the transcripts directly to the Court of Criminal Appeals and being forced to submit incomplete records themselves. Occasionally, clerks will receive writs of mandamus from the Court of Criminal Appeals to remedy this omission. HB 833 would solve this logistical loophole and ensure that clerks had all the documents they were legally required to transmit.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The companion bill, SB 252 by West, was passed by the Senate by a vote of 30-0 on March 27 and referred to the House Committee on Criminal Jurisprudence on April 4.