

## **BILL ANALYSIS**

Senate Research Center

H.B. 2104  
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Criminal Justice  
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Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Current law provides for an offense if a person hinders the arrest of another person who has committed an offense. There is a loophole in the Penal Code, however, that allows a person to help certain people avoid arrest without punishment. Probation violation is not considered an offense, and therefore someone cannot be prosecuted for helping a probation violator avoid arrest. Also, current law permits hindering the arrest of a juvenile offender for a misdemeanor.

H.B. 2104 closes these loopholes and allows for the prosecution of a person who assists someone under the authority of a warrant or *capias*.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 38.05(a), Penal Code, to provide that a person commits an offense if the person, with intent to hinder the arrest, detention, adjudication, or disposition of a child for engaging in delinquent conduct that violates a penal law of the state, rather than a penal law of the grade of felony, or with intent to hinder the arrest of another other the authority of a warrant or *capias*, performs certain actions to conceal, aid in the escape of, or warn the other person.

SECTION 2. Amends Section 38.05, Penal Code, by adding Subsection (a-1) to provide an affirmative defense to prosecution for providing or aiding in providing, with the intent to hinder an arrest, prosecution, conviction, or punishment of another person, to that person any means of avoiding arrest or effecting escape.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.