

## **BILL ANALYSIS**

Senate Research Center

H.B. 221  
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Criminal Justice  
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Engrossed

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

Numerous murders and sexual offenses go unresolved for many years because the accused have evaded arrest and cannot be brought to trial for the crimes for which they were indicted. Current law does not provide for or require additional consequences to be added to the parole conditions of a convicted felon who evaded arrest for an extended period before being found guilty of committing murder or a sexual offense.

Currently, Section 38.04 (Evading Arrest or Detention), Penal Code, provides that it is a Class B misdemeanor offense for a person to evade arrest or detention unless the person uses a vehicle while in flight, in which case the offense is a state jail felony. There is currently no enhancement for persons who have committed the offense on multiple occurrences. Thus, it has become advantageous for persons committing offenses with penalties greater than a Class B misdemeanor to run and take the chance of getting away rather than face the offense for which the officer is attempting the arrest.

H.B. 221 delays parole eligibility for an inmate serving a sentence for a sexual assault or aggravated sexual assault or for murder by three years for every 12 months that elapse between the date the arrest warrant is issued for the inmate following an indictment and the date the inmate is arrested for the offense. The bill requires a judge in such a case, on a motion, to make an affirmative finding of fact regarding the number of months that elapsed between the date of issuance of an arrest warrant and the date the defendant was arrested for the offense.

The bill also amends current law relating to the punishment prescribed for the offense of evading arrest or detention.

### **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 Article 42.01, Code of Criminal Procedure, by adding Section 9, as follows:

Sec. 9. Provides that in addition to the information described by Section 1 (relating to certain information relating to the case that the judgment is required to reflect), the judgment should reflect affirmative findings entered pursuant to Article 42.0198.

SECTION 2. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0198, as follows:

Art. 42.0198. FINDING REGARDING DELAY IN ARREST OF DEFENDANT. Requires the judge, in the trial of an offense under Section 19.02 (Murder), 22.011 (Sexual Assault), or 22.021 (Aggravated Sexual Assault), Penal Code, on the motion of the attorney representing the state to make an affirmative finding of fact regarding the number of months that elapsed, if any, between the date an arrest warrant was issued for the defendant following an indictment for the offense and the date the defendant was arrested for the offense. Requires the judge to enter the affirmative finding in the judgment in the case.

SECTION 3. Amends Section 508.145, Government Code, by adding Subsection (d-1), as follows:

(d-1) Provides that notwithstanding Subsection (d) (relating to an inmate serving a sentence for a certain offense not being eligible for release on parole until the inmate serves a certain actual calendar time served), for every 12 months that elapse between the date an arrest warrant is issued for the inmate following an indictment for the offense and the date the inmate is arrested for the offense, the earliest date on which an inmate is eligible for parole is delayed by three years from the date otherwise provided by Subsection (d), if the inmate is serving a sentence for an offense under Section 19.02, 22.011, or 22.021, Penal Code.

SECTION 4. Amends Section 38.04(b), Penal Code, to provide that an offense under this section is a Class A, rather than B, misdemeanor, except that the offense is a certain felony, including a state jail felony if the actor has been previously convicted under this section. Makes nonsubstantive changes.

SECTION 5. Makes application of Section 9, Article 42.01, Code of Criminal Procedure, and Article 42.0198, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 6. Makes application of Section 508.145, Government Code, as amended by this Act, prospective.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2009.