

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 29, 2015

Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1071 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

J. Hinojosa
Senator Hinojosa, Chair

Antonina Thompson
S. Thompson

Konnie Burton
Senator Burton

[Signature]
H. [Signature]

Jan Huffman
Senator Huffman

[Signature]
Canales

Chris Perry
Senator Perry

[Signature]
On the part of the Senate
Senator Whitmire

[Signature]
On the part of the House
Wu

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1071

A BILL TO BE ENTITLED

AN ACT

relating to requiring notice of the scheduling of an execution date
and the issuance of a warrant of execution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 43.141, Code of Criminal Procedure, is
amended by adding Subsections (b-1) and (b-2) and amending
Subsection (c) to read as follows:

(b-1) Not later than the second business day after the date
on which the convicting court enters an order setting the execution
date, a copy of the order must be sent by first-class mail, e-mail,
or fax to:

(1) the attorney who represented the condemned person
in the most recently concluded stage of a state or federal
postconviction proceeding; and

(2) the office of capital writs established under
Subchapter B, Chapter 78, Government Code.

(b-2) The exclusive remedy for a failure to comply with
Subsection (b-1) is the resetting of the execution date under this
article.

(c) An [~~The first~~] execution date may not be earlier than
the 91st day after the date the convicting court enters the order
setting the execution date. [~~A subsequent execution date may not be
earlier than the 31st day after the date the convicting court enters
the order setting the execution date.~~]

1 SECTION 2. Article 43.15, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 43.15. WARRANT OF EXECUTION. (a) Whenever any person
4 is sentenced to death, the clerk of the court in which the sentence
5 is pronounced~~[7]~~ shall, not later than the 10th day [~~within ten~~
6 ~~days~~] after the court enters its order setting the date for
7 execution, issue a warrant under the seal of the court for the
8 execution of the sentence of death, which shall recite the fact of
9 conviction, setting forth specifically the offense, the judgment of
10 the court, and the time fixed for the [~~his~~] execution, and which
11 shall be directed to the director of the correctional institutions
12 division of the Texas Department of Criminal Justice [~~Director of~~
13 ~~the Department of Corrections~~] at Huntsville, Texas, commanding the
14 director [~~him~~] to proceed, at the time and place named in the order
15 of execution, to carry the same into execution, as provided in [~~the~~
16 ~~preceding~~] Article 43.14, and shall deliver such warrant to the
17 sheriff of the county in which such judgment of conviction was had,
18 to be [~~by him~~] delivered by the sheriff to the director [~~said~~
19 ~~Director of the Department of Corrections~~], together with the
20 condemned person if the person [~~he~~] has not previously been so
21 delivered.

22 (b) At the time the warrant is issued under Subsection (a),
23 the clerk of the court shall send a copy of the warrant to:

24 (1) the attorney who represented the condemned person
25 in the most recently concluded stage of a state or federal
26 postconviction proceeding;

27 (2) the attorney representing the state; and

1 (3) the office of capital writs established under
2 Subchapter B, Chapter 78, Government Code.

3 SECTION 3. (a) Article 43.141, Code of Criminal Procedure,
4 as amended by this Act, applies only to an order entered on or after
5 the effective date of this Act. An order entered before the
6 effective date of this Act is governed by the law in effect on the
7 date the order was entered, and the former law is continued in
8 effect for that purpose.

9 (b) Article 43.15, Code of Criminal Procedure, as amended by
10 this Act, applies only to a warrant issued on or after the effective
11 date of this Act. A warrant issued before the effective date of
12 this Act is governed by the law in effect on the date the warrant was
13 issued, and the former law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2015.

Senate Bill 1071
House Amendments
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Article 43.141, Code of Criminal Procedure, is amended by adding Subsection (b-1) to read as follows:

(b-1) A convicting court may not set an execution date unless:

(1) the attorney representing the state files a written motion to set an execution date; and

(2) not later than the 10th day before the date on which the court enters an order setting the execution date, a copy of the motion is served on:

(A) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding; and

(B) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

SECTION 2. Article 43.15, Code of Criminal Procedure, is amended to read as follows:

Art. 43.15. WARRANT OF EXECUTION. (a) Whenever any person is sentenced to death, the clerk of the court in which the sentence is pronounced[;] shall, not later than the 10th day [~~within ten days~~] after the court enters its order setting the date for execution, issue a warrant under the seal of the court for the execution of the sentence of death, which shall recite the fact of conviction, setting forth specifically the offense, the judgment of the court, and the time fixed for the [~~his~~] execution, and which shall be directed to the director of

HOUSE VERSION (IE)

SECTION 1. Article 43.141, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (c) to read as follows:

(b-1) Not later than the second day after the date on which the convicting court enters an order setting the execution date, a copy of the order must be provided to:

(1) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding; and

(2) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

(b-2) The exclusive remedy for a failure to comply with Subsection (b-1) is the resetting of the execution date under this article.

(c) An [The first] execution date may not be earlier than the 91st day after the date the convicting court enters the order setting the execution date. [A subsequent execution date may not be earlier than the 31st day after the date the convicting court enters the order setting the execution date.] [FA1]

SECTION 2. Same as Senate version.

CONFERENCE

SECTION 1. Article 43.141, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (c) to read as follows:

(b-1) Not later than the second business day after the date on which the convicting court enters an order setting the execution date, a copy of the order must be sent by first-class mail, email, or fax to:

(1) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding; and

(2) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

(b-2) The exclusive remedy for a failure to comply with Subsection (b-1) is the resetting of the execution date under this article.

(c) An [The first] execution date may not be earlier than the 91st day after the date the convicting court enters the order setting the execution date. [A subsequent execution date may not be earlier than the 31st day after the date the convicting court enters the order setting the execution date.] [FA1]

SECTION 2. Same as Senate version.

Senate Bill 1071
House Amendments
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

the correctional institutions division of the Texas Department of Criminal Justice [~~Director of the Department of Corrections~~] at Huntsville, Texas, commanding the director [~~him~~] to proceed, at the time and place named in the order of execution, to carry the same into execution, as provided in [~~the preceding~~] Article 43.14, and shall deliver such warrant to the sheriff of the county in which such judgment of conviction was had, to be [~~by him~~] delivered by the sheriff to the director [~~said Director of the Department of Corrections~~], together with the condemned person if the person [~~he~~] has not previously been so delivered.

(b) At the time the warrant is issued under Subsection (a), the clerk of the court shall send a copy of the warrant to:

(1) the attorney who represented the condemned person in the most recently concluded stage of a state or federal postconviction proceeding;

(2) the attorney representing the state; and

(3) the office of capital writs established under Subchapter B, Chapter 78, Government Code.

SECTION 3. (a) Article 43.141, Code of Criminal Procedure, as amended by this Act, applies only to an order entered on or after the effective date of this Act. An order entered before the effective date of this Act is governed by the law in effect on the date the order was entered, and the former law is continued in effect for that purpose.

(b) Article 43.15, Code of Criminal Procedure, as amended by this Act, applies only to a warrant issued on or after the effective date of this Act. A warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 3. Same as Senate version.

SECTION 3. Same as Senate version.

Senate Bill 1071
House Amendments
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

SECTION 4. This Act takes effect September 1, 2015.

SECTION 4. Same as Senate version.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1071 by Hinojosa (Relating to requiring notice of the scheduling of an execution date and the issuance of a warrant of execution.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Code of Criminal Procedure to require a convicting court and a clerk of court to provide a copy of certain documents relating to the scheduled execution of an individual to certain parties. Failure to comply with requirements, as set forth by provisions of the bill, would result in the resetting of the execution date.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, ESi, SD, EK

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 1071 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Benfonia Thompson
(name)

May 29, 2015
(date)