

SUBJECT: Enhancing punishment for evading arrest or detention

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Keel, Talton, Garcia, Green, Kitchen, Martinez Fischer, Shields
0 nays
1 absent — Dunnam

SENATE VOTE: On final passage, February 26 — voice vote

WITNESSES: For — *Registered but did not testify:* Chris W. Jones, Combined Law Enforcement Associations of Texas; James Jones, San Antonio Police Officers' Association; Tom Mann, Texas Police Chiefs Association
Against — None

BACKGROUND: Penal Code, sec. 38.04 makes it a Class A misdemeanor (punishable by up to one year in jail and/or a maximum fine of \$4,000) for a person to flee in a vehicle from a peace officer attempting to arrest or detain the person lawfully. A subsequent offense is a state-jail felony (punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000).

DIGEST: SB 215 would enhance to a state-jail felony the punishment for a first offense of fleeing from an officer in a vehicle. A subsequent offense would be a third-degree felony, punishable by two to 10 years in prison and an optional fine of up to \$10,000.

The bill would take effect September 1, 2001, and would apply to offenses committed on or after that date.

SUPPORTERS SAY: Enhancing the punishment for fleeing arrest in a vehicle would deter suspects from putting themselves and the public at risk. Police pursuits are dangerous not only to the officer and the suspect, but to everyone else on the road. The Department of Public Safety reports that between 1996 and 1998, Texas had

544 cases of fleeing and evading arrest. If people understand that initiating a police chase could lead to severe punishment, they will be more likely to cooperate with officers and not place others at risk.

**OPPONENTS
SAY:**

SB 215 would enhance punishment unnecessarily and would increase police power over citizens. The punishment for fleeing arrest in a vehicle already is severe, allowing up to a year in jail for a first offense and increasing the degrees of felony offenses for a second offense or causing injury or death to another as a result of a chase. Rather than deterring frightened motorists from fleeing a traffic stop, this bill would give better leverage in a courtroom to police who may fabricate charges against people to stop their vehicles.

NOTES:

An identical bill in the 76th Legislature, SB 480 by Bernsen, passed the Senate but died on the House's General State Calendar in the final days of the session.