

- SUBJECT:** Requiring counties to put detainers in convicted defendants' "pen packets"
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 6 ayes — Allen, Hopson, Stick, Alonzo, Haggerty, Mabry
0 nays
1 absent — Farrar
- WITNESSES:** For — None
Against — None
On — Gerald Garrett, Texas Board of Pardons and Paroles; Donald Lee, Texas Conference of Urban Counties; Carl Reynolds and Debbie Roberts, Texas Department of Criminal Justice
- BACKGROUND:** State law requires the Texas Department of Criminal Justice (TDCJ) to accept jail inmates upon conviction within 45 days of counties' completion of their official paperwork, a status known as "paper ready." In conjunction with prisoners' transfers, Code of Criminal Procedure, art. 42.09, sec. 8(a) requires a county to send TDCJ 10 documents or types of information. This so-called "pen packet" includes copies of the felony judgment; any parole/probation supervision plans; a report on the nature and seriousness of the offense; a victim impact statement; arrest records; a copy of the indictment; and any pre- or post-sentencing investigation reports.

A detainer is a request from another governmental agency for notification of an inmate's release from incarceration.
- DIGEST:** CSHB 1236 would add two documents that counties must furnish to TDCJ when transferring jail inmates convicted and sentenced to the state prison system: a copy of any federal detainer in the county's possession that has been placed on the defendant, and a written description of a hold or warrant issued for the defendant by any other jurisdiction of which the county is aware.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1236 would help close a troublesome information gap by incorporating federal detainers into counties' standard "pen packet" procedure. Law enforcement agencies need to communicate better, especially in the post-9/11 environment. To be more effective, they must work as a team and share any useful information across agencies. This is a critical element of the nation's war on terrorism.

The Texas prison system now holds about 8,800 foreign nationals. The U.S. Immigration and Naturalization Service (INS) has issued detainers for about 6,600 of them and has ordered about 3,600 deported. The Federal Bureau of Prisons also issues detainers for state prison inmates. The INS, however, has experienced problems when TDCJ has not received its detainers. This lack of consistency across counties has hampered joint state-federal efforts to identify criminal aliens during TDCJ's intake process.

CSHB 1236 could lead to earlier parole of nonviolent foreign offenders and inmates, who, in turn, would be deported. TDCJ is identifying these subpopulations with a view toward using parole of foreign nationals to save the state substantial costs. The provision on holds and warrants would benefit state and local jurisdictions as well, bringing uniformity to the process and helping ensure that no criminal "falls through the cracks."

District clerks and county jail administrators already prepare and/or gather several documents related to convicted inmates, including federal detainers. Holds and warrants are readily available from state and national Criminal Information Centers. Adding these requirements would not burden counties significantly or create additional costs for them or the state.

TDCJ relies on counties to perform this function because it has no way of determining the existence of detainers or other holds. A defendant's "paper-ready" status is a procedural, not statutory, matter that this bill would not affect. The 45-day deadline to accept defendants from jail begins when TDCJ receives their pen packets, not when the packets are completed. A detainer, hold, or warrant discovered by a county can be forwarded to TDCJ at any point in the transferral process without affecting an inmate's status.

OPPONENTS
SAY:

CSHB 1236 is vague about the timing of when counties should send information about detainers, holds, and warrants to TDCJ. Preparation of pen packets typically is the last step completed before a jail inmate is declared “paper-ready” for prison transfer, at which time the state’s 45-day deadline period begins. The documentation required by CSHB 1236 might not be readily available to all counties. If it surfaced after the deadline period began but before transfer, it could create confusion or even invalidate the “paper-ready” declaration, causing delays and possibly incurring costs.

OTHER
OPPONENTS
SAY:

CSHB 1236 should go a step further by requiring counties to initiate searches for all federal detainers and for all holds and warrants for inmates being transferred to the state prison system and by giving counties additional resources to do so, if necessary. The United States is at war against an unseen enemy that sometimes lurks within the nation’s borders. Counties are in an ideal position to help identify and prosecute terrorists and their collaborators already in custody before they can commit crimes more heinous than those for which the state has convicted them.

NOTES:

The committee substitute would add the requirement for counties to send written descriptions of outstanding holds or warrants from other jurisdictions, and it would specify that the detainers sent with the pen packet be federally issued and in the counties’ possession.

The companion bill, SB 883 by Whitmire, was reported favorably as substituted by the Senate Criminal Justice Committee on April 1 and recommended for the Local and Uncontested Calendar.