

BILL ANALYSIS

Senate Research Center

S.B. 873
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A *capias pro fine* warrant is a post-adjudication warrant issued for people who have failed to pay fines and court costs. Unlike other warrants, a *capias pro fine* requires the arresting officer to take the defendant specifically to the issuing court for a hearing. If the court finds the defendant is indigent, the court can waive the fines and court costs and prevent the jailing of indigent defendants. However, the judge is often not available to see the defendant within a reasonable length of time, being occupied with another proceeding or away from the courthouse. The officer is then left to decide whether to release the defendant, wait until the judge is available, or jail the defendant. Releasing the defendant defeats the purpose of the warrant, while waiting for the judge or jailing the defendant are costly alternatives.

S.B. 873 amends Article 43.05, Code of Criminal Procedure, to allow peace officers to take defendants to another court in the same jurisdiction, if available, as an alternative to putting them in jail. This change would prevent the unnecessary jailing of defendants when other courts are available to conduct the hearing. S.B. 873 permits local governments to manage their jail costs, avoid the inefficient use of peace officers' time, and prevent the inappropriate jailing of indigent defendants. (Original Author's / Sponsor's Statement of Intent)

S.B. 873 amends current law relating to the courts authorized to hear certain matters relating to a *capias pro fine*.

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 43.05, Code of Criminal Procedure, by adding Subsection (c), as follows:

- (c) Authorizes the arresting officer, if the court that issued the *capias pro fine* is unavailable, in lieu of placing the defendant in jail, to take the defendant to:
 - (1) another court in the same county with jurisdiction over Class A and Class B misdemeanors or a county criminal law magistrate court in the same county, if the court that issued the *capias pro fine* was a county court or a statutory county court with Class A and Class B misdemeanor jurisdiction; or
 - (2) another court in the same county with jurisdiction over felony cases or a county criminal law magistrate court in the same county, if the court that issued the *capias pro fine* was a district court with felony jurisdiction.

SECTION 2. Amends Article 45.045, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

- (a-1) Authorizes the arresting officer, if the court that issued the *capias pro fine* is unavailable, in lieu of placing the defendant in jail, to take the defendant to:

(1) a justice of the peace court or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located in the same county, if the court that issued the capias pro fine was a justice of the peace court; or

(2) a municipal court that is located in the same municipality, if the court that issued the capias pro fine was a municipal court.

SECTION 3. Amends Article 45.046, Code of Criminal Procedure, by adding Subsection (d), as follows:

(d) Authorizes the following judicial officers, for purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, to conduct the hearing:

(1) a justice of the peace or county criminal law magistrate with jurisdiction over Class C misdemeanors who is located in the same county as the issuing court, if the issuing court was a justice of the peace court; or

(2) a municipal court judge who is located in the same municipality as the issuing court, if the issuing court was a municipal court.

SECTION 4. Effective date: September 1, 2015.