

By: Lavender

H.B. No. 1125

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the rights of an accused person in and the written
3 waiver of extradition proceedings.

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

5 SECTION 1. Section 10, Article 51.13, Code of Criminal
6 Procedure, is amended to read as follows:

7 Sec. 10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT OF
8 HABEAS CORPUS. No person arrested upon such warrant shall be
9 delivered over to the agent whom the Executive Authority demanding
10 him shall have appointed to receive him unless he shall first be
11 taken forthwith before a judge of a court of record in this State,
12 or before a justice of the peace serving a precinct that is located
13 in a county bordering another state, who shall inform him of the
14 demand made for his surrender and of the crime with which he is
15 charged, and that he has the right to demand and procure legal
16 counsel; and if the prisoner or his counsel shall state that he or
17 they desire to test the legality of his arrest, the judge of the
18 ~~[such]~~ court of record shall fix a reasonable time to be allowed the
19 prisoner in [him within] which to apply for a writ of habeas corpus,
20 or the justice of the peace shall direct the prisoner to a court of
21 record for purposes of obtaining such a writ. When the ~~[such a]~~
22 writ is applied for, notice thereof, and of the time and place of
23 hearing thereon, shall be given to the prosecuting officer of the
24 county in which the arrest is made and in which the accused is in

1 custody, and to the said agent of the demanding State.

2 SECTION 2. Section 25a, Article 51.13, Code of Criminal
3 Procedure, is amended to read as follows:

4 Sec. 25a. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. Any
5 person arrested in this State charged with having committed any
6 crime in another State or alleged to have escaped from confinement,
7 or broken the terms of his bail, probation, or parole may waive the
8 issuance and service of the warrant provided for in Sections 7 and 8
9 and all other procedure incidental to extradition proceedings, by
10 executing or subscribing in the presence of a judge or any court of
11 record within this State, or in the presence of a justice of the
12 peace serving a precinct that is located in a county bordering
13 another state, a writing which states that the arrested person [~~he~~]
14 consents to return to the demanding State; provided, however, that
15 before such waiver shall be executed or subscribed by such person
16 the [~~it shall be the duty of such~~] judge or justice of the peace
17 shall [~~to~~] inform such person of his:

18 (1) right [~~rights~~] to the issuance and service of a
19 warrant of extradition; and

20 (2) right to obtain a writ of habeas corpus as provided
21 for in Section 10.

22 If and when such consent has been duly executed it shall
23 forthwith be forwarded to the office of the Governor of this State
24 and filed therein. The judge or justice of the peace shall direct
25 the officer having such person in custody to deliver forthwith such
26 person to the duly accredited agent or agents of the demanding
27 State, and shall deliver or cause to be delivered to such agent or

1 agents a copy of such consent; provided, however, that nothing in
2 this section shall be deemed to limit the rights of the accused
3 person to return voluntarily and without formality to the demanding
4 State, nor shall this waiver procedure be deemed to be an exclusive
5 procedure or to limit the powers, rights or duties of the officers
6 of the demanding State or of this State.

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.