

SENATE AMENDMENTS

2nd Printing

By: Lavender

H.B. No. 1125

A BILL TO BE ENTITLED

AN ACT

relating to the rights of an accused person in and the written waiver of extradition proceedings.

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

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

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

ADOPTED

MAY 22 2013

K. Peltz

Atty. Gen.
Secretary of the Senate

By: _____

H.B. No. 1125

Substitute the following for H.B. No. 1125:

By: *Joan Huffman*

C.S. H.B. No. 1125

A BILL TO BE ENTITLED

AN ACT

relating to the rights of an accused person in and the written
waiver of extradition proceedings.

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

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

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

1 the county in which the arrest is made and in which the accused
2 is in custody, and to the said agent of the demanding State.

3 (b) Before a justice of the peace who is not an attorney
4 may perform a duty or function permitted by Subsection (a), the
5 justice must take, through the Texas Justice Court Training
6 Center, a training course that focuses on extradition law. The
7 center shall develop a course to satisfy the requirements of
8 this subsection.

9 (c) Each justice of the peace who performs a duty or
10 function permitted by Subsection (a) shall ensure that the
11 applicable proceeding is transcribed or videotaped and that the
12 record of the proceeding is retained in the records of the court
13 for at least 270 days.

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

16 Sec. 25a. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. (a)
17 Any person arrested in this State charged with having committed
18 any crime in another State or alleged to have escaped from
19 confinement, or broken the terms of his bail, probation, or
20 parole may waive the issuance and service of the warrant
21 provided for in Sections 7 and 8 and all other procedure
22 incidental to extradition proceedings, by executing or
23 subscribing in the presence of a judge or any court of record
24 within this State, or in the presence of a justice of the peace
25 serving a precinct that is located in a county bordering another
26 state, a writing which states that the arrested person [he]
27 consents to return to the demanding State; provided, however,

1 that before such waiver shall be executed or subscribed by such
2 person the ~~[it shall be the duty of such]~~ judge or justice of
3 the peace shall ~~[to]~~ inform such person of his:

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

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

8 If and when such consent has been duly executed it shall
9 forthwith be forwarded to the office of the Governor of this
10 State and filed therein. The judge or justice of the peace
11 shall direct the officer having such person in custody to
12 deliver forthwith such person to the duly accredited agent or
13 agents of the demanding State, and shall deliver or cause to be
14 delivered to such agent or agents a copy of such consent;
15 provided, however, that nothing in this section shall be deemed
16 to limit the rights of the accused person to return voluntarily
17 and without formality to the demanding State, nor shall this
18 waiver procedure be deemed to be an exclusive procedure or to
19 limit the powers, rights or duties of the officers of the
20 demanding State or of this State.

21 (b) Before a justice of the peace who is not an attorney
22 may perform a duty or function permitted by Subsection (a), the
23 justice must take, through the Texas Justice Court Training
24 Center, a training course that focuses on extradition law. The
25 center shall develop a course to satisfy the requirements of
26 this subsection.

27 (c) Each justice of the peace who performs a duty or

1 function permitted by Subsection (a) shall ensure that the
2 applicable proceeding is transcribed or videotaped and that the
3 record of the proceeding is retained in the records of the court
4 for at least 270 days.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1125 by Lavender (Relating to the rights of an accused person in and the written waiver of extradition proceedings.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Justice Court Training Center to provide training for justices of the peace on extradition law. A justice of the peace from a county bordering another state who is not an attorney would be required to take this training before assisting with extraditions.

The bill would require that the proceeding be transcribed or videotaped. The record of the proceeding must be retained in the courts record for at least 270 days.

Local Government Impact

Texas's justice court proceedings are not currently required to be videotaped or recorded and transcribed by a court reporter. A freelance court reporter may need to be hired to record and transcribe the proceeding. Alternatively, video equipment may need to be purchased to record the proceeding. The cost of a court reporter or video equipment would vary by county, and some counties may already have a court reporter or video equipment available for use by the justice courts.

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

LBB Staff: UP, SD, ESi, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 17, 2013

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1125 by Lavender (Relating to the rights of an accused person in and the written waiver of extradition proceedings.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Justice Court Training Center to provide training for justices of the peace on extradition law. A justice of the peace from a county bordering another state who is not an attorney would be required to take this training before assisting with extraditions.

The bill would require that the proceeding be transcribed or videotaped. The record of the proceeding must be retained in the courts record for at least 270 days.

Local Government Impact

Texas's justice court proceedings are not currently required to be videotaped or recorded and transcribed by a court reporter. A freelance court reporter may need to be hired to record and transcribe the proceeding. Alternatively, video equipment may need to be purchased to record the proceeding. The cost of a court reporter or video equipment would vary by county, and some counties may already have a court reporter or video equipment available for use by the justice courts.

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

LBB Staff: UP, ESi, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1125 by Lavender (Relating to the rights of an accused person in and the written waiver of extradition proceedings.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would add justice of the peace to the judges who may inform an arrestee of his or her rights surrounding extradition to another state. Only justices of the peace who serve in a precinct that is located in a county bordering another state would assist with extraditions. The arrestee would be allowed to challenge the legality of the arrest by writ of habeas corpus, in which case the justice of the peace would direct the arrestee to a court of record.

The bill would slightly reduce the workloads of state judges; however, any fiscal impact is not anticipated to be significant.

Local Government Impact

The bill would slightly reduce the workloads of county judges; however, any fiscal impact is not anticipated to be significant.

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

LBB Staff: UP, ESi, SD, KKR, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 25, 2013

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: IIB1125 by Lavender (Relating to the rights of an accused person in and the written waiver of extradition proceedings.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add justice of the peace to the judges who may inform an arrestee of his or her rights surrounding extradition to another state. Only justices of the peace who serve in a precinct that is located in a county bordering another state would assist with extraditions. The arrestee would be allowed to challenge the legality of the arrest by writ of habeas corpus, in which case the justice of the peace would direct the arrestee to a court of record.

The bill would slightly reduce the workloads of state judges; however, any fiscal impact is not anticipated to be significant.

Local Government Impact

The bill would slightly reduce the workloads of county judges; however, any fiscal impact is not anticipated to be significant.

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

LBB Staff: UP, ESi, SD, KKR, TB