

House Bill 1125
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (CS)

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

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

(c) Each justice of the peace who performs a duty or function permitted by Subsection (a) shall ensure that the applicable proceeding is transcribed or videotaped and that the record of

CONFERENCE

House Bill 1125
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

the proceeding is retained in the records of the court for at least 270 days.

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

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

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

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

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

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

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

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

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

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

House Bill 1125
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

SENATE VERSION (CS)

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

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

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

SECTION 3. Same as House version.

CONFERENCE