

BILL ANALYSIS

Senate Research Center
79R9847 UM-F

H.B. 2885
By: Giddings (Carona)
Criminal Justice
5/6/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, an arrest warrant or complaint for the passing of a bad check can be issued without approval of the county attorney or district attorney, as applicable. Different counties within the state have slightly differing structures in their justice systems, with some counties having a county attorney, and others having a district attorney.

Section 32.41, Penal Code, prohibits the issuance of a bad check. It is a Class C misdemeanor, punishable by a maximum fine of \$500, to write a check knowing that there are not sufficient funds in the bank account to cover the amount of the check. If the check is for a child support payment, the penalty is a Class B misdemeanor, punishable by a maximum of 180 days in jail and/or a fine not to exceed \$2,000.

Article 45, Code of Criminal Procedure, authorizes a justice or judge to issue a warrant for an arrest upon the filing of a sworn complaint or an affidavit showing probable cause. This section also lays out the requirements for a filed complaint or formal charge of a crime.

H.B. 2885 provides that in a county with a population of more than two million that does not have a county attorney, a justice or judge may not issue a warrant for passing of a bad check, unless the district attorney has approved the complaint or affidavit on which the warrant is based. H.B. 2885 amends Article 45.014(d), Code of Criminal Procedure, to require a justice or judge to get the approval of the district attorney before issuing a warrant for the issuance of a bad check in a county with a population of more than two million that does not have a county attorney. In addition, H.B. 2885 amends Article 45.019, Code of Criminal Procedure, to require complaints to be approved by the district attorney in a county with a population of two million or more that does not have a county attorney, regardless of whether a collection proceeding was initiated by the district attorney. H.B. 2885 would take effect on September 1, 2005, and would apply only to a complaint or warrant filed after that date.

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 45.014, Code of Criminal Procedure, by adding Subsection (d), to prohibit a justice or judge, in a county with a population of more than two million that does not have a county attorney, from issuing a warrant under this section for an offense under Section 32.41, Penal Code, unless the district attorney has approved the complaint or affidavit on which the warrant is based.

SECTION 2. Amends Article 45.019, Code of Criminal Procedure, by adding Subsection (g), to require a complaint for an offense under Section 32.41, Penal Code, in a county with a population of more than two million that does not have a county attorney, to be approved by the district attorney, regardless of whether a collection proceeding is initiated by the district attorney under Section 32.41(e), Penal Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.