

BILL ANALYSIS

Senate Research Center

H.B. 47
By: Keel (Wentworth)
Criminal Justice
5/7/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 47 amends the Code of Criminal Procedure to impose a civil penalty in the amount of \$1,000 for each violation for a magistrate's clerk who fails to make an arrest warrant and the accompanying affidavit publicly accessible. This provisions also applies to clerks who fail to make public an affidavit establishing probable cause for a search warrant. The attorney general may sue to collect the penalty which will be deposited to the credit of the general revenue fund when collected.

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 15.26, Code of Criminal Procedure, to provide that if the magistrate's clerk fails to make a copy of the warrant and the affidavit available as required by this subsection, the clerk is liable to the state for a civil penalty in the amount of \$1,000 for each violation. Authorizes the attorney general to sue to collect a civil penalty under this subsection. Requires a civil penalty collected under this subsection to be deposited in the state treasury to the credit of the general revenue fund. Makes nonsubstantive changes.

SECTION 2. Amends Article 18.01(b), Code of Criminal Procedure, to make a conforming change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.