

Planes, Trains and Automobiles: Arrest Warrants, *Capias*, & *Capias Pro Fines*:

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Introduction

- General Information about Arrest Warrants
- General Information about *Capias*
- General Information about *Capias Pro Fine*

Common Ground

- What do the Capias, the Arrest Warrant, and the Capias Pro Fine have in common?
 - All are “writs.”
 - All result in arrest
 - Which triggers 4th Amendment Protections
 - ALL Require Probable Cause

Important Differences

- How are the Capias, the Arrest Warrant, and the Capias Pro Fine Different?
 - They are triggered by different events
 - They are issued at different stages of a criminal proceeding
 - Depending on the Writ, they are issued either by a “Magistrate” OR a “Judge”

As We Proceed...

- Distinguish the role of your judge acting in their capacity as the municipal judge from your judge acting in their capacity as a magistrate.

What's the Distinction?

- All Judges are Magistrates.
- Judge v. Magistrate
 - Judge: Jurisdiction (warrants)
 - Magistrate: Many others (warrants)

Arrest Warrants

- Proper when:
 - Verbal order of arrest is proper.
 - Person swears under oath that another has committed an offense.
 - CCP authorized arrest.

What is a Capias?

- A written order commanding any peace officer to arrest a person accused of an offense and to bring that person before the court immediately or on a date stated in the capias.
- CCP 23.01

CCP 23.05

- Requires a court to issue a capias when a bond forfeiture is declared.

Capias Pro Fine

- Is a writ issued when a judgment has been entered against an adult defendant who is not in custody or when an adult defendant fails to satisfy a judgment.
- CCP 45.045

Fails to Satisfy a Judgment

- Makes arrangements to pay and fails to pay;
- Fails to perform community service;
- Pays with a check that has insufficient funds in the bank.

What Does it Do?

- Shall state the amount of the judgment and sentence and command a peace officer to bring the defendant before the court or place the defendant in jail until the defendant can be brought before the court.

Remember!

- There still must be probable cause to issue a *capias pro fine*!
- Where is the probable cause?

Remember!

- Capias and Capias Pro Fines are completely different. So be careful which term you are using!

Remember!

- A “capias” is issued for the seizure of a person; while a “capias pro fine” is a post-judgment enforcement mechanism for a defendant who has failed to satisfy the terms of a judgment relating to the payment of a pecuniary fine.

Remember!

- The purpose of the *capias pro fine* is NOT to commit a defendant to jail. Rather, its purpose is to bring the defendant before the court to show cause as to why they did not comply with the court ordered judgment.

Let's Talk About...

HB 3060

Why is HB 3060
significant?

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- Remember we talked about the confusion regarding these instruments?

Key Points about HB 3060

- Article 15.18 (authorizing magistrates to take pleas for out of county warrants) not applicable to *capias pro fines*.
- Article 17.19 (bail): if before filing of formal charging instrument, it's an "arrest warrant;" if after filing of formal charging instrument, it's a *capias*.

Key Points about HB 3060

- Distinguishes “capias” issued prior to trial under Chp. 23 from “capias” issued under Chp. 43 that occurs after judgment and sentence.
- Also, codifies *Sharp v. State*, 677 S.W. 2d 513 (Tex. Crim. App. 1984).

Key Points about HB 3060

- The court must make a written determination that the indigent defendant failed to make a good faith effort to discharge the fine and court costs under Article 43.03(f) and could have done so without experiencing undue hardship.

Key Points about HB 3060

- Requires that individuals arrested on *capias pro fine* be brought immediately before the issuing court or placed in jail until the business day following the arrest.
- Court costs for a *capias pro fine* is \$50.00.

What is the proper instrument for a Bond Forfeiture or Surrender of Principal PRIOR TO formal charging?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

What is the proper instrument to
Procure Custody PRIOR TO
formal charging?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

Remember the Article 45.014 Exception!

What is the proper instrument for a Bond Forfeiture or Surrender of Principal AFTER Formal Charging BUT PRIOR TO Judgment?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

What is the proper instrument To Procure Custody AFTER Formal Charging BUT PRIOR TO Judgment?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

What is the proper instrument To Procure Custody AFTER Judgment and Sentence?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

What is the proper instrument to Enforce Judgment for UNPAID Fines and/or Costs?

1. Arrest Warrant
2. Capias
3. Capias Pro Fine

Thank You

& Have a
Great
Day!

