

IN THE _____ COURT
EL PASO, TEXAS

THE STATE OF TEXAS

CAUSE NO. _____

VS.

BOOKING NO. _____

OFFENSE: _____

D.O.B. _____

Defendant's (Principal's Name) _____

AFFIDAVIT OF INCARCERATION (Art. 17.16)

TO THE PRESIDING JUDGE OF SAID COURT:

Before me, the undersigned authority, on this day personally appeared _____
d/b/a _____, who being duly sworn according to law, on oath states:

My name is _____ licensed agent of _____ (insert
insurance company's name). I am of sound mind and capable of making this affidavit. I am personally acquainted with the facts stated in
this Affidavit and they are true and correct of my own personal knowledge. I hereby state the following:

Date of Bond _____ and Bond Amount: \$ _____.

The defendant is currently incarcerated in _____.

The defendant was incarcerated on _____. The facility contact and phone number _____

No nisi is currently pending regarding this bond.

Pursuant to Article 17.16(f) of the Texas Code of Criminal Procedure I acknowledge and certify that a copy of the affidavit of
incarceration was delivered to the office of the prosecuting attorney. _____ (Agent's Initials)

I asked the El Paso County Sheriff's Office to verify this incarceration.

I acknowledge that 17.16(g) of the Texas Code of Criminal Procedure provides that a surety is liable for all reasonable and necessary
expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

X _____

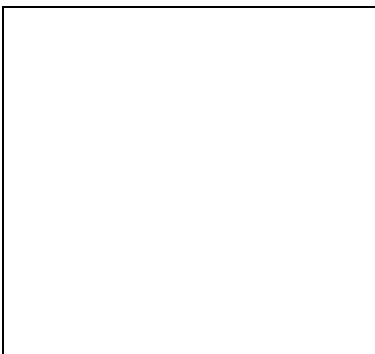
(PRINTED NAME OF LICENSED AGENT)

(MAILING ADDRESS AND PHONE NUMBER)

SUBSCRIBED AND SWORN TO BE BEFORE ME by _____, on this the ____ day of
_____, 20____.

Notary Public, State of Texas

(CLERK'S SEAL)



SHERIFF'S USE ONLY

Sheriff's Verification

I have verified on _____ that the above Defendant is:

_____ Incarcerated as Reported

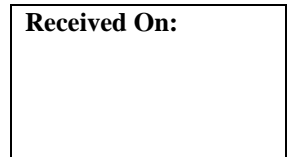
_____ Not Incarcerated

_____ Released on: _____ Time: _____ AM/PM

Comments:

Verified By:

Received On:



IN THE _____ COURT

EL PASO COUNTY, TEXAS

THE STATE OF TEXAS

VS.

CAUSE NO. _____

BOOKING NO. _____

OFFENSE: _____

ORDER FOR ISSUANCE OF CAPIAS

It appears that the Court, based on the facts stated herein, that the Defendant named above is currently incarcerated as specified above. The above affidavit was filed under the authority of Article 17.16 of the Texas Code of Criminal Procedure which provides the procedure to absolve the surety of liability in the event of the Defendant's incarceration. The Court **GRANTS** that the Clerk of the Court to issue an alias capias for the arrest of the Defendant as identified above who was released on bond for the above-referenced offense.

So ORDERED and SIGNED this _____ day of _____, 20__.

Presiding Judge

ALIAS CAPIAS FOR ARREST

TO ANY PEACE OFFICER OF THE STATE OF TEXAS

YOU ARE HEREBY DIRECTED AND ORDERED TO ARREST _____; DOB: _____;
DRIVER'S LICENSE NO.: _____; ADDRESS _____ MAY
YOU KEEP SAID DEFENDANT WITH THE OFFENSE OF _____ IN THE
STATE OF TEXAS, INSTANTER, THAN HEREIN FAIL NOT, BUT DUE RETURN MAKE HERE OF THIS COURT.

(More information on defendant is contained on attached paper, if any.)

SIGNED _____ DAY OF _____ 20__

JUDGE

CURRENT BOND: \$ _____
NEW BOND AMOUNT: \$ _____
FEE AMOUNT: \$ _____
DATE OF BOND: _____

PEACE OFFICER'S RETURN

CAME IN HAND ON THE _____ DAY OF _____, 20__

AND EXECUTED ON THE _____ DAY OF _____, 20__

SHERIFF

BY: _____
DEPUTY

Instructions for Affidavits of Incarceration
(Art. 17.16 of Texas Code of Criminal Procedure)
(2 page form – Affidavit and Order for Issuance of Capias)

Art. 17.16. DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION

(a) A surety may before forfeiture relieve the surety of the surety's undertaking by:

- (1) surrendering the accused into the custody of the sheriff of the county where the prosecution is pending; or
- (2) delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in federal custody, in the custody of any state, or in any county of this state.

Procedure: The bondsman will complete the Affidavit of Incarceration (AOI) and submit to the respective Clerk's Office whereupon the Clerk's Office will stamp seal the AOI and provide a certified copy of the AOI to the Bondsman. Bondsman then delivers a copy of the AOI to the office of the prosecuting attorney. In most instances this will be the District Attorney's Office, however, for cases involving Deceptive Business Practice, Illegal Dumping, Violations of the Clean Air Act, or Theft of Property by Check (Class A & B only) this will be the County Attorney's Office. Bondsman is also required to deliver a copy of the AOI to the Warrants Section of the Jail, where it will be date stamped received. Once the AOI is received by the Sheriff's Office Warrants Section, the Sheriff's Office will verify the incarceration, make the notation on the AOI and forward the AOI to the Bond Forfeiture Unit of the County Attorney's Office (BFU). If a FELONY case, the BFU will check to see if a nisi has been filed. If a nisi has been filed, then the AOI is filed with the District Clerk, but no alias capias is prepared. If **no nisi has been filed** then the BFU will prepared the alias capias and deliver it to the appropriate court. If a MISDEMEANOR case, and a nisi is pending, then the AOI will be filed with the County Clerk. If there is no nisi, the BFU will file the AOI with the County Clerk, who will then prepare the alias capias, and deliver it to the corresponding court.

(b) On receipt of an affidavit described by Subsection (a) (2), the Sheriff of the county in which the prosecution is pending shall verify whether the accused is incarcerated as stated in the affidavit. If the sheriff verifies the statement in the affidavit, the sheriff shall notify the magistrate before which the prosecution is pending of the verification.

Procedure: The Sheriff's Warrants office will notify a designated staff member from the County Attorney's Office Bond Forfeiture Unit to retrieve from the Sheriff's Warrant Office any AOI that have been verified by the Sheriff's Office.

(c) On a verification described by this article, the sheriff shall place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated. On receipt of notice of a verification described by this article, the magistrate before whom the prosecution is pending shall direct the clerk of the court to issue a capias for the arrest of the accused, except as provided by Subsection (d).

Procedure: The warrant has already been issued under (a)(2).

(d) A capias for the arrest of the accused is not required if:

- (1) A warrant has been issued for the accused's arrest and remains outstanding; or
- (2) The issuance of a capias would otherwise be unnecessary for the purpose of taking the accused into custody.

(e) For the purposes of Subsection (a) (2) of this article, the bond is discharged and the surety is absolved of liability on the bond on the verification of the incarceration of the accused.

(f) An affidavit described by Subsection (a) (2) and the documentation of any verification obtained under Subsection (b) must be:

- (1) Filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court; and
- (2) Delivered to the office of the prosecuting attorney.

(g) A surety is liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

Procedure: The Sheriff's Warrant Section will deliver to the Bail Bond Board Administrator's Staff a cost statement of the expenses incurred by the Sheriff in bringing back a defendant from another jurisdiction. The Bail Bond Board Administrator's staff will prepare and deliver an invoice to the bondsmen and recover the costs.