

By: Thompson of Harris

H.B. No. 830

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to law enforcement policies regarding the issuance of  
3 citations for misdemeanors punishable by fine only and to a  
4 limitation on the authority to arrest a person for certain  
5 fine-only misdemeanors.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Chapter 2, Code of Criminal Procedure, is  
8 amended by adding Article 2.1309 to read as follows:

9 Art. 2.1309. CITE AND RELEASE POLICY. (a) In this article,  
10 "law enforcement agency" means an agency of the state or an agency  
11 of a political subdivision of the state authorized by law to employ  
12 peace officers.

13 (b) Texas Southern University, in consultation with law  
14 enforcement agencies, law enforcement associations, law  
15 enforcement training experts, and community organizations engaged  
16 in the development of law enforcement policy, shall publish a  
17 written model policy regarding the issuance of citations for  
18 misdemeanor offenses, including traffic offenses, that are  
19 punishable by fine only. The policy must provide a procedure for a  
20 peace officer, on a person's presentation of appropriate  
21 identification, to verify the person's identity and issue a  
22 citation to the person. The policy must comply with Articles 14.01,  
23 14.03, and 14.06 of this code and Sections 543.001 and 543.004,  
24 Transportation Code.

1        (c) Each law enforcement agency shall adopt a written policy  
2 regarding the issuance of citations for misdemeanor offenses,  
3 including traffic offenses, that are punishable by fine only. The  
4 policy must meet the requirements for the model policy described by  
5 Subsection (b). A law enforcement agency may adopt the model policy  
6 published by Texas Southern University under Subsection (b).

7        SECTION 2. Article 14.01, Code of Criminal Procedure, is  
8 amended by adding Subsection (c) to read as follows:

9        (c) Notwithstanding Subsection (a) or (b), a peace officer  
10 or any other person may not, without a warrant, arrest an offender  
11 for a misdemeanor punishable by fine only, other than an offense  
12 under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02,  
13 Penal Code.

14        SECTION 3. Article 14.03, Code of Criminal Procedure, is  
15 amended by adding Subsection (h) to read as follows:

16        (h) Notwithstanding Subsection (a), (d), or (g), a peace  
17 officer may not, without a warrant, arrest a person who only commits  
18 one or more offenses punishable by fine only, other than an offense  
19 under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02,  
20 Penal Code.

21        SECTION 4. Article 14.06, Code of Criminal Procedure, is  
22 amended by amending Subsection (b) and adding Subsection (b-1) to  
23 read as follows:

24        (b) A peace officer who is charging a person, including a  
25 child, with committing an offense that is a [~~Class C~~] misdemeanor  
26 punishable by fine only, other than an offense under Section 49.02,  
27 Penal Code, shall [~~may~~], instead of taking the person before a

1 magistrate, issue a citation to the person that contains:

2 (1) written notice of the time and place the person  
3 must appear before a magistrate;

4 (2) the name and address of the person charged;

5 (3) the offense charged;

6 (4) information regarding the alternatives to the full  
7 payment of any fine or costs assessed against the person, if the  
8 person is convicted of the offense and is unable to pay that amount;  
9 and

10 (5) the following admonishment, in boldfaced or  
11 underlined type or in capital letters:

12 "If you are convicted of a misdemeanor offense involving  
13 violence where you are or were a spouse, intimate partner, parent,  
14 or guardian of the victim or are or were involved in another,  
15 similar relationship with the victim, it may be unlawful for you to  
16 possess or purchase a firearm, including a handgun or long gun, or  
17 ammunition, pursuant to federal law under 18 U.S.C. Section  
18 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
19 questions whether these laws make it illegal for you to possess or  
20 purchase a firearm, you should consult an attorney."

21 (b-1) Notwithstanding Subsection (b), a peace officer who  
22 is charging a person, including a child, with committing an offense  
23 that is a misdemeanor under Section 22.01(a)(2) or (3), Penal Code,  
24 punishable by fine only may, instead of taking the person before a  
25 magistrate, issue a citation to the person that contains all of the  
26 information required for a citation issued under Subsection (b).

27 SECTION 5. Section 543.001, Transportation Code, is amended

1 to read as follows:

2           Sec. 543.001. ARREST WITHOUT WARRANT AUTHORIZED. Any peace  
3 officer may arrest without warrant a person found committing a  
4 violation of this subtitle, other than a person found only  
5 committing one or more misdemeanors punishable by fine only.

6           SECTION 6. Section 543.004(a), Transportation Code, is  
7 amended to read as follows:

8           (a) An officer shall issue a written notice to appear if:

9                   (1) the offense charged is a misdemeanor under this  
10 subtitle that is punishable by fine only[-

11                                   ~~[(A) speeding,~~

12                                   ~~[(B) the use of a wireless communication device~~  
13 ~~under Section 545.4251, or~~

14                                   ~~[(C) a violation of the open container law,~~  
15 ~~Section 49.031, Penal Code]; and~~

16                   (2) the person makes a written promise to appear in  
17 court as provided by Section 543.005.

18           SECTION 7. The changes in law made by this Act apply only to  
19 an offense committed on or after the effective date of this Act. An  
20 offense committed before the effective date of this Act is governed  
21 by the law in effect on the date the offense was committed, and the  
22 former law is continued in effect for that purpose. For purposes of  
23 this section, an offense was committed before the effective date of  
24 this Act if any element of the offense occurred before that date.

25           SECTION 8. (a) Not later than January 1, 2022, Texas  
26 Southern University shall publish the model policy required by  
27 Article 2.1309(b), Code of Criminal Procedure, as added by this

1 Act.

2 (b) Not later than March 1, 2022, each law enforcement  
3 agency in this state shall adopt the policy required by Article  
4 2.1309(c), Code of Criminal Procedure, as added by this Act.

5 SECTION 9. This Act takes effect September 1, 2021.