

BILL ANALYSIS

C.S.S.B. 1597
By: Hinojosa
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas law does not prohibit peace officers from arresting a person for a misdemeanor offense punishable by fine only and which does not include jail time. C.S.S.B. 1597 requires each law enforcement agency to establish a written policy regarding the arrest of persons without a warrant for committing certain offenses.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1597 amends Chapter 14, Code of Criminal Procedure, by adding Article 14.07, as follows:

Art. 14.07. LAW ENFORCEMENT AGENCY POLICIES ON ARRESTS WITHOUT WARRANT.

- (a) Requires each law enforcement agency in this state to adopt a detailed written policy relating to the arrest of persons without a warrant for misdemeanor offenses, including traffic offenses, that are punishable by fine only.
- (b) Requires the policy adopted by the law enforcement agency to clearly describe the circumstances in which a peace officer is authorized to make a warrantless custodial arrest for a fine-only misdemeanor and to provide for a review of such an arrest by the immediate supervisor of the officer making the arrest.
- (c) Provides that Article 38.23 (Evidence Not To Be Used) of the Code of Criminal Procedure does not apply to evidence arising out of an arrest made in violation of a policy adopted under Subsection (a) or where an arrest is made in the absence of a policy required to be adopted by this article.

The bill requires law enforcement agencies to adopt arrest policies by January 1, 2004.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1597 amends the original by providing that Article 38.23 (Evidence Not To Be Used) of the Code of Criminal Procedure does not apply to evidence arising out of an arrest made in violation of a policy adopted under Article 14.07(a), Code of Criminal Procedure, or where an arrest is made in the absence of a policy required to be adopted by this article.

The substitute removes language in the original that provided that an arrest made in violation of a policy adopted under Article 14.07(a), Code of Criminal Procedure, does not create an exception, defense, or

affirmative defense under Chapter 2, Penal Code, to the offense for which the person was arrested.