

By: Gonzales

H.B. No. 2977

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of an alternative system for direct filing
3 of charges against persons who have been arrested.

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

5 SECTION 1. Article 2.09, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 2.09. WHO ARE MAGISTRATES. Each of the following
8 officers is a magistrate within the meaning of this Code: The
9 justices of the Supreme Court, the judges of the Court of Criminal
10 Appeals, the justices of the Courts of Appeals, the judges of the
11 District Court, the magistrates appointed by the judges of the
12 district courts of Bexar County, Dallas County, or Tarrant County
13 that give preference to criminal cases, the criminal law hearing
14 officers for Harris County appointed under Subchapter L, Chapter
15 54, Government Code, the magistrates appointed by the judges of the
16 district courts of Lubbock County or Webb County, the magistrates
17 appointed by the judges of the criminal district courts of Dallas
18 County or Tarrant County, the masters appointed by the judges of the
19 district courts and the county courts at law that give preference to
20 criminal cases in Jefferson County, the magistrates appointed by
21 the judges of the district courts and the statutory county courts of
22 Williamson County, the magistrates appointed by the judges of the
23 district courts and statutory county courts that give preference to
24 criminal cases in Travis County, the county judges, the judges of

1 the county courts at law, judges of the county criminal courts, the
2 judges of statutory probate courts, the associate judges appointed
3 by the judges of the statutory probate courts under Subchapter G,
4 Chapter 54, Government Code, the criminal law hearing officers
5 appointed under Subchapter L, Chapter 54, Government Code, the
6 justices of the peace, the mayors and recorders and the judges of
7 the municipal courts of incorporated cities or towns.

8 SECTION 2. Article 14.06, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE OR OTHER
11 OFFICER. (a) Except as provided by Subsection (b), in each case
12 enumerated in this Code, the person making the arrest or the person
13 having custody of the person arrested shall take the person
14 arrested or have him taken without unnecessary delay, but not later
15 than 48 hours after the person is arrested, before the magistrate
16 who may have ordered the arrest, before some magistrate of the
17 county where the arrest was made without an order, or, if necessary
18 to provide more expeditiously to the person arrested the warnings
19 described by Article 15.17 of this Code, before a magistrate in a
20 county bordering the county in which the arrest was made. The
21 magistrate shall immediately perform the duties described in
22 Article 15.17 of this Code. If a county has a direct filing system
23 established under Article 15.161, the person may be taken before
24 any officer described by that article for the performance of duties
25 described by that article.

26 (b) A peace officer who is charging a person, including a
27 child, with committing an offense that is a Class C misdemeanor,

1 other than an offense under Section 49.02, Penal Code, may, instead
2 of taking the person before a magistrate or officer described by
3 Article 15.161, issue a citation to the person that contains
4 written notice of the time and place the person must appear before a
5 magistrate or officer, as appropriate, the name and address of the
6 person charged, and the offense charged.

7 SECTION 3. Chapter 15, Code of Criminal Procedure, is
8 amended by adding Article 15.161 to read as follows:

9 Art. 15.161. DIRECT FILING SYSTEM. (a) The Office of Court
10 Administration of the Texas Judicial System shall by rule establish
11 an alternative system to process a person who is arrested and
12 brought to the jail, regardless of whether a warrant was issued in
13 the case.

14 (b) The rules must:

15 (1) preserve all constitutional and statutory rights
16 of the person arrested; and

17 (2) provide:

18 (A) that a representative of the office of the
19 county clerk or district clerk, the office of the attorney
20 representing the state, and a person who is a magistrate under
21 Article 2.09 may meet with the accused person at the jail
22 immediately after the person is brought to the jail by the arresting
23 peace officer;

24 (B) that at the meeting:

25 (i) the person who is a magistrate shall
26 inform the person arrested, in clear language, of the accusation
27 against the person and of the person's rights as required by Article

1 15.17(a), except that the person who is a magistrate shall ask the
2 person if the person wishes to proceed with the examining trial at
3 the present time; and

4 (ii) the attorney representing the state
5 shall determine whether probable cause exists to believe that the
6 person committed the offense;

7 (C) that if probable cause that the person
8 committed the offense is found to exist, the person shall be charged
9 with the offense, or if probable cause is not found, the person
10 shall be released; and

11 (D) a procedure for timely arraignment and the
12 setting of bond for the person charged with an offense.

13 SECTION 4. Not later than January 1, 2006, the Office of
14 Court Administration of the Texas Judicial System shall adopt rules
15 as required by Article 15.161, Code of Criminal Procedure, as added
16 by this Act.

17 SECTION 5. This Act takes effect September 1, 2005.