

BILL ANALYSIS

H.B. 1939
By: Escobar
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 1939 allows peace officers to exercise personal discretion when responding to a situation that might otherwise result in booking for certain Class B misdemeanors by allowing the peace officers to divert alleged offenders to agencies or approved service providers for disposition of their case. The purpose of this Act is to give peace officers additional tools for responding to certain situations in which booking for a Class B misdemeanor would currently be an option. The bill preserves due process by requiring that agencies to which persons are diverted may not confine or otherwise require reporting from the person being referred. Current law does not specifically make allowances for these diversions.

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

House Bill 1939 amends the Code of Criminal Procedure, by adding Article 14.07 which authorizes peace officers to dispose of a case based on certain Class B misdemeanors without taking the alleged offender before a magistrate if (1) the local district or statutory county court judges or local community justice council have adopted guidelines allowing such dispositions; (2) the disposition is authorized under the adopted guidelines; and (3) the peace officer makes a written report of the officer's disposition to the law enforcement agency employing the officer, identifying the alleged offender and specifying the grounds for the disposition.

The bill does not apply to a Class B misdemeanor committed under Sections 22.01, 25.04, 37.12, 38.02, 38.04, 42.01, 42.02, 49.04, 49.05, 49.06, or 49.065, Penal Code, or Section 545.421, Transportation Code.

The bill provides that a disposition authorized under this bill may allow a peace officer to refer an alleged offender to a governmental agency other than a court; to refer an alleged offender to one or more service providers on a list approved by the judges or the community justice council that adopted guidelines, such as a community-based drug or mental health treatment program, a faith-based organization, a neighborhood restorative justice panel, or a homeless shelter; or issue a warning.

H.B. 1939 provides that a disposition may not allow a law enforcement agency to keep an alleged offender in custody, or require an alleged offender to report periodically to a peace officer, law enforcement agency, or any other governmental agency.

The bill states that, not later than December 31 of each calendar year, a law enforcement agency that is authorized to dispose of a case in the manner provided by this article must report statistics indicating the number and kind of dispositions made by that law enforcement agency during that year to the judges or the community justice council that adopted disposition guidelines.

The bill makes conforming changes to Article 14.06(a), Code of Criminal Procedure. Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2007.