

## **BILL ANALYSIS**

C.S.H.B. 2391  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas county jails are under significant capacity pressures. Earlier this year, Dallas was forced to release 700 criminals and suspects, including home burglars, from its county jail to comply with an order from the Jail Standards Commission. Harris County is proposing a new \$300 million county jail bond measure. The largest share of county jail inmates consist of pretrial detainees, most of who remain in jail because they cannot post bail. A day in a Texas county jail costs taxpayers \$66, amounting to \$24,000 a year.

Current Texas law requires police officers to arrest a person who has committed any Class A or B misdemeanor offense; however, for some misdemeanor offenses, the time and resources spent by the officer making arrest and by the county far exceed the severity of the offense. An arrest is clearly necessary in instances where a person has committed an offense that poses a threat to the community, such as burglary of a vehicle or driving while intoxicated. For certain offenses, the county can better utilize its limited resources while ensuring public safety by issuing a citation. This bill states that an officer has the discretion to issue a citation only for a specific list of non-violent misdemeanor offenses, such as driving with a suspended license.

This bill will allow peace officers to use their time more efficiently and give local governments a much needed tool to control their burgeoning jail populations. Police officers receive extensive training, equipping them to make a sound decision of whether an arrest is necessary based on the situation.

### **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**

Committee Substitute to House Bill 2391 amends the Code of Criminal Procedure to provide that if the person resides in the county where the offense occurred, the peace officer is authorized to issue a citation to a person, who is being charged with a certain Class A or B misdemeanor offense, instead of taking the person before a magistrate. The citation has to contain written notice of the time and place the person must appear before a magistrate of this state, the name and address of the person charges, and the offense charged.

The officer's discretion to issue a citation only applies to: Driving While License Invalid; Contraband in Correctional Facility only for a Class B misdemeanor offense; Criminal Mischief only for a Class B misdemeanor offense; Graffiti only for a Class B misdemeanor offense; Possession of Marihuana for Class A and B misdemeanor offenses; Theft only for a Class B misdemeanor offense if the value of property stolen is \$50 or more but less than \$500, or \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06, Penal Code; or Theft of Service only for a Class B misdemeanor offense.

The bill also provides that if a person charged with a misdemeanor offense appears before a magistrate in compliance with a citation under this Act, the magistrate must perform the duties imposed by this article in the same manner as if the person had been arrested and brought before the magistrate by a peace officer. After the magistrate performs the duties imposed by this Act, the magistrate except for good cause shown is authorized to release the person on personal bond.

However, if a person fails to appear as required by the citation, the magistrate must issue a warrant for the arrest of the person.

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.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute provides that if the person resides in the county where the offense occurred, the peace officer is authorized to issue a citation to a person, who is being charged with a certain Class A or B misdemeanor offense, instead of taking the person before a magistrate. The original did not provide that the person had to reside in the county where the offense occurred, and only allowed for the peace office to issue a citation to a person, who is being charged with a certain Class B misdemeanor offense.

The substitute contains specific offenses that the peace officer is authorized to issue a citation instead of taking the person charged with the offense before a magistrate. The original contained offenses which the officer was not authorized to issue a citation.

The substitute adds that after the magistrate performs the duties imposed by this Act, the magistrate except for good cause shown is authorized to release the person on personal bond. However, if a person fails to appear as required by the citation, the magistrate must issue a warrant for the arrest of the person.