

By: Escobar

H.B. No. 1939

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain peace officers to dispose of a case based on a Class B misdemeanor without taking the alleged offender before a magistrate.

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

SECTION 1. Article 14.06(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (b) or Article 14.07, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

SECTION 2. Chapter 14, Code of Criminal Procedure, is amended by adding Article 14.07 to read as follows:

Art. 14.07. DISPOSITION WITHOUT TAKING OFFENDER BEFORE MAGISTRATE. (a) A peace officer may dispose of a case based on a Class B misdemeanor without taking the alleged offender before a magistrate if:

1 (1) guidelines for the disposition have been adopted
2 by either:

3 (A) the district judges trying criminal cases in
4 each judicial district of the county in which the alleged offender
5 is arrested and the statutory county court judges trying criminal
6 cases in the county or counties served by the judicial districts; or

7 (B) the community justice council serving the
8 county in which the alleged offender is arrested;

9 (2) the disposition is authorized under the guidelines
10 adopted under Subdivision (1); and

11 (3) the peace officer makes a written report of the
12 officer's disposition to the law enforcement agency employing the
13 officer, identifying the alleged offender and specifying the
14 grounds for the disposition.

15 (b) This article does not apply to a Class B misdemeanor
16 committed under:

17 (1) Section 22.01, 25.04, 37.12, 38.02, 38.04, 42.01,
18 42.02, 49.04, 49.05, 49.06, or 49.065, Penal Code; or

19 (2) Section 545.421, Transportation Code.

20 (c) A disposition authorized under this article may allow a
21 peace officer to:

22 (1) refer an alleged offender to a governmental agency
23 other than a court;

24 (2) refer an alleged offender to one or more service
25 providers on a list approved by the judges or the community justice
26 council that adopted guidelines under Subsection (a)(1), such as a
27 community-based drug or mental health treatment program, a

1 faith-based organization, a neighborhood restorative justice
2 panel, or a homeless shelter; or

3 (3) issue a warning.

4 (d) A disposition authorized under this article may not:

5 (1) allow a law enforcement agency to keep an alleged
6 offender in custody; or

7 (2) require an alleged offender to report periodically
8 to a peace officer or a law enforcement agency or any other
9 governmental agency.

10 (e) Not later than December 31 of each calendar year, a law
11 enforcement agency that is authorized to dispose of a case in the
12 manner provided by this article must report to the judges or the
13 community justice council that adopted guidelines under Subsection
14 (a)(1) statistics indicating the number and kind of dispositions
15 made during that year by the law enforcement agency under this
16 article.

17 SECTION 3. The change in law made by this Act applies only
18 to an offense committed on or after September 1, 2007. An offense
19 committed before September 1, 2007, is governed by the law in effect
20 when the offense was committed, and the former law is continued in
21 effect for that purpose. For purposes of this section, an offense
22 was committed before September 1, 2007, if any element of the
23 offense was committed before that date.

24 SECTION 4. This Act takes effect September 1, 2007.