

By: Pena

H.B. No. 3059

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appearance of certain misdemeanor offenders before
3 a magistrate.

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

5 SECTION 1. Article 14.06, Code of Criminal Procedure, is
6 amended by amending Subsection (a) and adding Subsections (c) and
7 (d) to read as follows:

8 (a) Except as otherwise provided by this article
9 [~~Subsection (b)~~], in each case enumerated in this Code, the person
10 making the arrest or the person having custody of the person
11 arrested shall take the person arrested or have him taken without
12 unnecessary delay, but not later than 48 hours after the person is
13 arrested, before the magistrate who may have ordered the arrest,
14 before some magistrate of the county where the arrest was made
15 without an order, or, to provide more expeditiously to the person
16 arrested the warnings described by Article 15.17 of this Code,
17 before a magistrate in any other county of this state. The
18 magistrate shall immediately perform the duties described in
19 Article 15.17 of this Code.

20 (c) If the person resides in the county where the offense
21 occurred, a peace officer who is charging a person, including a
22 child, with committing an offense that is a Class A or B misdemeanor
23 may, instead of taking the person before a magistrate, issue a
24 citation to the person that contains written notice of the time and

1 place the person must appear before a magistrate of this state as
2 described by Subsection (a), the name and address of the person
3 charged, and the offense charged.

4 (d) Subsection (c) applies only to a person charged with
5 committing an offense under:

6 (1) Section 481.121, Health and Safety Code, if the
7 offense is punishable under Subsection (b)(1) or (2) of that
8 section;

9 (2) Section 28.03, Penal Code, if the offense is
10 punishable under Subsection (b)(2) of that section;

11 (3) Section 28.08, Penal Code, if the offense is
12 punishable under Subsection (b)(1) of that section;

13 (4) Section 31.03, Penal Code, if the offense is
14 punishable under Subsection (e)(2)(A) of that section;

15 (5) Section 31.04, Penal Code, if the offense is
16 punishable under Subsection (e)(2) of that section;

17 (6) Section 38.114, Penal Code, if the offense is
18 punishable as a Class B misdemeanor; or

19 (7) Section 521.457, Transportation Code.

20 SECTION 2. Article 15.17, Code of Criminal Procedure, is
21 amended by adding Subsection (g) to read as follows:

22 (g) If a person charged with an offense punishable as a
23 misdemeanor appears before a magistrate in compliance with a
24 citation issued under Article 14.06(b) or (c), the magistrate shall
25 perform the duties imposed by this article in the same manner as if
26 the person had been arrested and brought before the magistrate by a
27 peace officer. After the magistrate performs the duties imposed by

1 this article, the magistrate except for good cause shown shall
2 release the person on personal bond. If a person who was issued a
3 citation under Article 14.06(c) fails to appear as required by that
4 citation, the magistrate before which the person is required to
5 appear shall issue a warrant for the arrest of the accused.

6 SECTION 3. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 covered by the law in effect when the offense was committed, and the
10 former law is continued in effect for that purpose. For purposes of
11 this section, an offense is committed before the effective date of
12 this Act if any element of the offense occurs before the effective
13 date.

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