

By: Miller of Comal

H.B. No. 3407

A BILL TO BE ENTITLED

AN ACT

relating to at-large filing for a misdemeanor offense and the appearance of the accused person before a magistrate.

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

SECTION 1. Article 14.06, Code of Criminal Procedure, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) If the individual resides in the county where the offense occurred, a person other than a peace officer who seeks to make a complaint alleging that the individual committed a misdemeanor offense may file with the prosecuting attorney:

(1) a complaint that describes the alleged offense;

and

(2) a sworn affidavit stating the facts that establish probable cause that the individual committed the offense.

(c-2) If the prosecuting attorney determines based on a complaint and sworn affidavit submitted under Subsection (c-1) that probable cause exists to believe that the individual committed the offense alleged, the prosecuting attorney shall prepare a charging instrument and file with the county clerk the charging instrument, the complaint, and the sworn affidavit. On receipt of the charging instrument, the county clerk may, instead of issuing a warrant for the arrest of the individual, send to the last known address of the individual by certified mail, return receipt requested, a notice to appear containing notice of the time and place the individual must

1 appear before the court, the name and address of the individual
2 charged, and the offense charged.

3 SECTION 2. Article 15.17(g), Code of Criminal Procedure, is
4 amended to read as follows:

5 (g) If a person charged with an offense punishable as a
6 misdemeanor appears before a magistrate in compliance with a
7 citation or notice to appear issued under Article 14.06 [~~14.06(b)~~
8 ~~or (c)~~], the magistrate shall perform the duties imposed by this
9 article in the same manner as if the person had been arrested and
10 brought before the magistrate by a peace officer. After the
11 magistrate performs the duties imposed by this article, the
12 magistrate except for good cause shown may release the person on
13 personal bond. If a person who was issued a citation or notice to
14 appear under Article 14.06 [~~14.06(c)~~] fails to appear as required
15 by that citation or notice to appear, the magistrate before which
16 the person is required to appear shall issue a warrant for the
17 arrest of the accused.

18 SECTION 3. Article 14.06(d), Code of Criminal Procedure, is
19 repealed.

20 SECTION 4. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 covered by the law in effect when the offense was committed, and the
24 former law is continued in effect for that purpose. For purposes of
25 this section, an offense was committed before the effective date of
26 this Act if any element of the offense occurred before that date.

27 SECTION 5. This Act takes effect September 1, 2009.