

BILL ANALYSIS

Senate Research Center
85R1435 AJZ-F

S.B. 271
By: Burton
Criminal Justice
4/27/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Class C misdemeanors, such as traffic violations, are punishable by a fine only, meaning that the individual cannot be placed in jail to serve a sentence for the violation unless there are other aggravating circumstances that escalate the violation to a higher offense. However, in some cases, law enforcement officers arrest individuals who commit these offenses and bring them to jail even though the crime itself cannot result in jail time for the offender. Recent case studies in Harris County revealed that between 1 to 3 individuals each day are being brought in on fine-only misdemeanors, wasting county resources and potentially disrupting the lives of the individuals arrested.

S.B. 271 amends Article 14.06, Code of Criminal Procedure, to state that when charging a person, including a child, with committing offenses punishable by fine only, an officer is prohibited from arresting the individual. Offenses that are not covered in this prohibition include public intoxication, minor in possession of alcohol, and minor in consumption of alcohol. Furthermore, the legislation requires an officer at a traffic stop for offenses punishable by a fine only to notify the person stopped that the officer cannot arrest the individual for the offense for which they are being stopped.

Not only do arrests expend law enforcement resources to temporarily jail individuals who are arrested for fine-only offenses, it can cause these individuals to lose their jobs and their income due to an offense for which they will never serve jail time. Moreover, if these individuals are arrested and booked shortly before a weekend, they may not be able to see a judge for the entirety of the weekend, forcing them to sit in jail for a Class C misdemeanor that will ultimately be punished with a fine. Most importantly, keeping these individuals in the community where they can retain employment will increase the likelihood that financial restitution be made to their victims, either specific individuals or the community at large. Requiring that law enforcement issue a citation or order to appear, as many often already do, will ensure these citizens do not spend time in jail for fine-only offenses, better enabling them to pay their debt to the community and ensuring that our resources are used wisely while still maintaining an equal level of public safety. Lastly, by requiring disclosure from a law enforcement officer to an individual who is pulled over in a traffic stop for a Class C misdemeanor, this bill can result in the de-escalation of certain situations that might otherwise become tense or dangerous for citizens and officers.

As proposed, S.B. 271 amends current law relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement in SECTION 3 (Section 543.0045, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 14.06, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (b-1), as follows:

- (b) Requires, rather than authorizes, a peace officer who is charging a person, including a child, with committing an offense that is a misdemeanor punishable by a fine only, rather

than is a Class C misdemeanor, other than an offense under Section 49.02 (Public Intoxication), Penal Code, or an offense under Chapter 106 (Provisions Relating to Age), Alcoholic Beverage Code, to issue a certain citation to the person, instead of taking that person before a magistrate.

(b-1) Authorizes a peace officer who is charging a person, including a child, with committing an offense that is a misdemeanor punishable by a fine only under Chapter 106, Alcoholic Beverage Code, to, instead of taking the person before a magistrate, issue to the person a citation that contains written notice of the time and place a person is required to appear before a magistrate, the name and address of the person, and the offense charged.

SECTION 2. Amends Section 543.004(a), Transportation Code, to require an officer to issue a written notice to appear if the offense charged is a misdemeanor under this subtitle (Rules of the Road) that is punishable by a fine only, rather than is speeding or a violation of the open container law, Section 49.03, Penal Code.

SECTION 3. Amends Subchapter A, Chapter 543, Transportation Code, by adding Section 543.0045, as follows:

Sec. 543.0045. NOTIFICATION REQUIRED DURING TRAFFIC STOP. (a) Requires an officer who stops a motor vehicle as a result of a person's alleged commission of a misdemeanor under this subtitle that is punishable by a fine only to promptly notify the person that the alleged offense is a misdemeanor that is punishable by a fine only, and prohibits the officer from arresting a person solely on the basis of that offense.

(b) Requires the Texas Commission on Law Enforcement (TCOLE) by rule to specify the language that is required to be included in the notification described by Subsection (a).

SECTION 4. Makes application of this Act prospective.

SECTION 5. Requires TCOLE to adopt the rules required by Section 543.0045(b), Transportation Code, as added by this Act, not later than December 1, 2017.

Section 6. (a) Effective date, except as provided by Subsection (b): September 1, 2017.

(b) Effective date, Section 543.0045, Transportation Code, as added by this Act: January 1, 2018.