

By: Thompson of Harris

H.B. No. 574

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on the authority to arrest a person for certain misdemeanors punishable by a fine only.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1386 to read as follows:

Art. 2.1386. CITE AND RELEASE POLICY. (a) In this article, "law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(b) Each law enforcement agency shall adopt a written policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by a fine only. The policy must provide a procedure for a peace officer employed by the agency to verify a person's identity and issue a citation to a person who fails to present proof of identification.

SECTION 2. Article 14.01, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a) or (b), a peace officer or any other person may not, without a warrant, arrest an offender for a misdemeanor punishable by a fine only, other than an offense under Section 49.02, Penal Code.

SECTION 3. Article 14.03, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

1        (h) Notwithstanding Subsection (a), (d), or (g), a peace  
2 officer may not, without a warrant, arrest a person who only commits  
3 one or more offenses punishable by a fine only, other than an  
4 offense under Section 49.02, Penal Code.

5        SECTION 4. Article 14.06(b), Code of Criminal Procedure, is  
6 amended to read as follows:

7        (b) A peace officer who is charging a person, including a  
8 child, with committing an offense that is a [~~Class C~~] misdemeanor  
9 punishable by a fine only, other than an offense under Section  
10 49.02, Penal Code, shall [~~may~~], instead of taking the person before  
11 a magistrate, issue a citation to the person that contains written  
12 notice of the time and place the person must appear before a  
13 magistrate, the name and address of the person charged, the offense  
14 charged, and the following admonishment, in boldfaced or underlined  
15 type or in capital letters:

16        "If you are convicted of a misdemeanor offense involving  
17 violence where you are or were a spouse, intimate partner, parent,  
18 or guardian of the victim or are or were involved in another,  
19 similar relationship with the victim, it may be unlawful for you to  
20 possess or purchase a firearm, including a handgun or long gun, or  
21 ammunition, pursuant to federal law under 18 U.S.C. Section  
22 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any  
23 questions whether these laws make it illegal for you to possess or  
24 purchase a firearm, you should consult an attorney."

25        SECTION 5. Section 543.001, Transportation Code, is amended  
26 to read as follows:

27        Sec. 543.001. ARREST WITHOUT WARRANT AUTHORIZED. Any peace

1 officer may arrest without warrant a person found committing a  
2 violation of this subtitle, other than a person found only  
3 committing one or more misdemeanors punishable by a fine only.

4 SECTION 6. Section 543.004(a), Transportation Code, is  
5 amended to read as follows:

6 (a) An officer shall issue a written notice to appear if:

7 (1) the offense charged is [~~speeding or~~] a misdemeanor  
8 under this subtitle punishable by a fine only [~~violation of the open~~  
9 ~~container law, Section 49.03, Penal Code~~]; and

10 (2) the person makes a written promise to appear in  
11 court as provided by Section 543.005.

12 SECTION 7. The changes in law made by this Act apply only to  
13 an offense committed on or after the effective date of this Act. An  
14 offense committed before the effective date of this Act is governed  
15 by the law in effect on the date the offense was committed, and the  
16 former law is continued in effect for that purpose. For purposes of  
17 this section, an offense was committed before the effective date of  
18 this Act if any element of the offense occurred before that date.

19 SECTION 8. This Act takes effect September 1, 2017.