

BILL ANALYSIS

C.S.H.B. 2754
By: White
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that arrest and incarceration resulting from the nonpayment of fines for a Class C misdemeanor offense are overly punitive and too expensive for taxpayers. There have been calls for local governments to use alternative collection methods without the threat of arrest and jail. C.S.H.B. 2754 seeks to address this issue by limiting the authority to arrest a person for certain misdemeanors punishable by fine only.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2754 amends the Code of Criminal Procedure to require each law enforcement agency, in consultation with judges, prosecutors, commissioners courts, governing bodies of municipalities, and residents located within the agency's jurisdiction, to adopt not later than January 1, 2020, a written policy regarding the issuance of citations for fine-only misdemeanor offenses, including traffic offenses. The bill requires the policy to:

- provide a procedure for a peace officer, on a person's presentation of appropriate identification, to verify the person's identity and issue a citation to the person;
- comply with certain procedures for an arrest without a warrant and providing notice to appear; and
- ensure judicial efficiency, law enforcement efficiency and effectiveness, and community safety.

The bill prohibits a peace officer or any other person from, without a warrant, arresting an offender who commits only one or more offenses punishable by fine only, other than public intoxication, a certain assault offense, or an offense under Alcoholic Beverage Code provisions relating to a minor, unless the officer or person has probable cause to believe that:

- the failure to arrest the offender creates a clear and immediate danger to the offender or the public,
- the failure to arrest the offender will allow a continued breach of the public peace, or
- the offender will not appear in court in accordance with the citation.

C.S.H.B. 2754 replaces the authorization for a peace officer who is charging a person with

committing a Class C misdemeanor other than public intoxication to issue a citation to the person instead of taking the person before a magistrate with a requirement for a peace officer who is charging a person with committing an offense that is a misdemeanor punishable by fine only, other than public intoxication, a certain assault offense, or an offense under Alcoholic Beverage Code provisions relating to a minor, to issue a citation to the person instead of taking the person before a magistrate. The bill authorizes a peace officer who is charging a person with committing an offense that is a misdemeanor punishable by fine only for such an assault offense or for such an Alcoholic Beverage Code offense, instead of taking the person before a magistrate, to issue to the person a citation that contains the requisite information.

C.S.H.B. 2754 amends the Transportation Code to prohibit a peace officer from arresting a person without a warrant if the person is found committing only one or more rules of the road misdemeanors punishable by fine only, unless the officer has such probable cause. The bill revises the conditions under which an officer required to issue a written notice to appear before a magistrate by requiring the officer to issue such a written notice if the offense charged is such a misdemeanor and the person makes a written promise to appear in court, unless the officer is authorized to arrest the person for violating rules of the road.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2754 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions:

- exempting a police officer from a requirement to issue a citation to a person who refuses to sign the citation or requests to be taken immediately before a magistrate;
- prohibiting a justice or judge from issuing an arrest warrant for a defendant's failure to appear at the initial court setting for a fine-only misdemeanor other than an appearance for a certain assault offense;
- prohibiting a court from issuing a *capias pro fine* for a defendant's failure to pay a fine or cost with respect to any fine-only misdemeanor other than a certain assault offense or for contempt of a judgment entered for such a misdemeanor;
- prohibiting a justice or municipal court from ordering the confinement of a person for failure to pay a fine or cost imposed for the conviction of a fine-only misdemeanor other than such an assault offense or for contempt of a judgment entered for the conviction of such a misdemeanor;
- revising the conditions under which a defendant is discharged from jail on habeas corpus;
- requiring an officer who stops a motor vehicle as a result of a person's alleged commission of a rules of the road fine-only misdemeanor to provide certain notification; and
- requiring a county or municipal jail to release each person who, on the bill's effective date, is confined in the jail for certain behavior.

The substitute includes provisions:

- requiring each law enforcement agency to adopt a written policy regarding the issuance of citations for fine-only misdemeanor offenses; and
- prohibiting a peace officer or any other person from, without a warrant, arresting an offender who commits certain fine-only misdemeanor offenses under certain conditions.

The substitute includes an exception to the required appearance before a magistrate of an officer required to issue a written notice to appear if the officer is authorized to arrest the person for violating rules of the road.

The substitute changes the bill's effective date.