87S10057 MAW-F

By:  Gervin-Hawkins H.B. No. 21

A BILL TO BE ENTITLED

AN ACT

relating to the disposition by a peace officer of certain Class B misdemeanors.

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

SECTION 1.  Article 14.06(a), Code of Criminal Procedure, is amended to read as follows:

(a)  Except as otherwise provided by this article or Article 14.07, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have that person [~~him~~] taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 [~~of this Code~~], before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 [~~of this Code~~].

SECTION 2.  Chapter 14, Code of Criminal Procedure, is amended by adding Article 14.07 to read as follows:

Art. 14.07.  DISPOSITION WITHOUT TAKING OFFENDER BEFORE MAGISTRATE. (a) A peace officer may dispose of a case based on a Class B misdemeanor without taking the alleged offender before a magistrate if:

(1)  the disposition is authorized by and is performed in accordance with guidelines adopted by either:

(A)  the district judges trying criminal cases in each judicial district of the county in which the alleged offender is arrested and the statutory county court judges trying criminal cases in the county or counties served by the judicial districts; or

(B)  the community justice council serving the county in which the alleged offender is arrested; and

(2)  the peace officer makes a written report of the officer's disposition to the law enforcement agency employing the officer, identifying the alleged offender and specifying the grounds for the disposition.

(b)  This article does not apply to a Class B misdemeanor under:

(1)  Section 22.01, 25.04, 37.12, 38.02, 42.01, 42.02, 49.04, 49.05, 49.06, or 49.065, Penal Code; or

(2)  Section 545.421, Transportation Code.

(c)  Guidelines adopted under Subsection (a)(1) may allow a peace officer to dispose of a case by:

(1)  referring an alleged offender to a governmental agency other than a court;

(2)  referring an alleged offender to one or more service providers on a list approved by the judges or the community justice council that adopted the guidelines, such as a community-based drug or mental health treatment program, a faith-based organization, a neighborhood restorative justice panel, or a homeless shelter; or

(3)  issuing a warning.

(d)  Guidelines adopted under Subsection (a)(1) may not allow a law enforcement agency to:

(1)  keep an alleged offender in custody; or

(2)  require an alleged offender to report periodically to a peace officer or a law enforcement agency or any other governmental agency.

(e)  Not later than January 31 of each year, a law enforcement agency that is authorized to dispose of a case by guidelines adopted under Subsection (a)(1) must report to the judges or the community justice council that adopted the guidelines the number and kind of dispositions made during the preceding calendar year by the law enforcement agency and any other information requested by the judges or council.

SECTION 3.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.  This Act takes effect on the 91st day after the last day of the legislative session.