87R2967 AJZ-F

By:  Miles S.B. No. 1626

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement policies regarding the issuance of citations for misdemeanors punishable by fine only and to a limitation on the authority to arrest a person for certain fine-only misdemeanors.

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

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1309 to read as follows:

Art. 2.1309.  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)  Texas Southern University, in consultation with law enforcement agencies, law enforcement associations, law enforcement training experts, and community organizations engaged in the development of law enforcement policy, shall publish a written model policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by fine only. The policy must 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. The policy must comply with Articles 14.01, 14.03, and 14.06 of this code and Sections 543.001 and 543.004, Transportation Code.

(c)  Each law enforcement agency shall adopt a written policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by fine only. The policy must meet the requirements for the model policy described by Subsection (b). A law enforcement agency may adopt the model policy published by Texas Southern University under Subsection (b).

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 fine only, other than an offense under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02, Penal Code.

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

(h)  Notwithstanding Subsection (a), (d), or (g), a peace officer may not, without a warrant, arrest a person who only commits one or more offenses punishable by fine only, other than an offense under Section 22.01(a)(2) or (3), Penal Code, or Section 49.02, Penal Code.

SECTION 4.  Article 14.06, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  A peace officer who is charging a person, including a child, with committing an offense that is a [~~Class C~~] misdemeanor punishable by fine only, other than an offense under Section 49.02, Penal Code, shall [~~may~~], instead of taking the person before a magistrate, issue a citation to the person that contains:

(1)  written notice of the time and place the person must appear before a magistrate;

(2)  the name and address of the person charged;

(3)  the offense charged;

(4)  information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount; and

(5)  the following admonishment, in boldfaced or underlined type or in capital letters:

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

(b-1)  Notwithstanding Subsection (b), a peace officer who is charging a person, including a child, with committing an offense that is a misdemeanor under Section 22.01(a)(2) or (3), Penal Code, punishable by fine only may, instead of taking the person before a magistrate, issue a citation to the person that contains all of the information required for a citation issued under Subsection (b).

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

Sec. 543.001.  ARREST WITHOUT WARRANT AUTHORIZED. Any peace officer may arrest without warrant a person found committing a violation of this subtitle, other than a person found only committing one or more misdemeanors punishable by fine only.

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

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

(1)  the offense charged is a misdemeanor under this subtitle that is punishable by fine only[~~:~~

[~~(A)  speeding;~~

[~~(B)  the use of a wireless communication device under Section 545.4251; or~~

[~~(C)  a violation of the open container law, Section 49.031, Penal Code~~]; and

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

SECTION 7.  The changes in law made by this Act apply 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 8.  (a) Not later than January 1, 2022, Texas Southern University shall publish the model policy required by Article 2.1309(b), Code of Criminal Procedure, as added by this Act.

(b)  Not later than March 1, 2022, each law enforcement agency in this state shall adopt the policy required by Article 2.1309(c), Code of Criminal Procedure, as added by this Act.

SECTION 9.  This Act takes effect September 1, 2021.