

By: Gervin-Hawkins

H.B. No. 718

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the disposition by a peace officer of certain Class B  
3 misdemeanors.

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

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

7 (a) Except as otherwise provided by this article or Article  
8 14.07, in each case enumerated in this Code, the person making the  
9 arrest or the person having custody of the person arrested shall  
10 take the person arrested or have that person [~~him~~] taken without  
11 unnecessary delay, but not later than 48 hours after the person is  
12 arrested, before the magistrate who may have ordered the arrest,  
13 before some magistrate of the county where the arrest was made  
14 without an order, or, to provide more expeditiously to the person  
15 arrested the warnings described by Article 15.17 [~~of this Code~~],  
16 before a magistrate in any other county of this state. The  
17 magistrate shall immediately perform the duties described in  
18 Article 15.17 [~~of this Code~~].

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

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

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

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

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

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

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

15           (1) Section 22.01, 25.04, 37.12, 38.02, 42.01, 42.02,  
16 49.04, 49.05, 49.06, or 49.065, Penal Code; or

17           (2) Section 545.421, Transportation Code.

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

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

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

1           (3) issuing a warning.

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

4           (1) keep an alleged offender in custody; or

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

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

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

23           SECTION 4. This Act takes effect September 1, 2021.