HOUSE
RESEARCH
ORGANIZATION bill analysis   4/29/2021

HB 830 (2nd reading)
S. Thompson, et al.
(CSHB 830 by White)

SUBJECT: Creating model policy, limiting arrests for certain fine-only misdemeanors

COMMITTEE: Homeland Security and Public Safety — committee substitute
             recommended

VOTE: 7 ayes — White, Bowers, Goodwin, E. Morales, Patterson, Schaefer,
             Tinderholt

             2 nays — Harless, Hefner

WITNESSES: For — Faith Bussey and Scott Henson, Just Liberty; Rick Briscoe, Open
             Carry Texas; Jeff LeBlanc, Republican Liberty Caucus of Texas; Amelia
             Casas, Texas Fair Defense Project; Derek Cohen, Texas Public Policy
             Foundation; and 11 individuals; (*Registered, but did not testify*: Jesse
             Taylor, 2020 Congressional District 33 Perminate Legislator Member;
             Lauren Johnson, ACLU of Texas; Samuel Sheetz, Americans for
             Prosperity; Chas Moore, Austin Justice Coalition; Stephanie Niesing and
             Jason Niesing, Church Outside The Box; Councilmember Rudy Metayer,
             City of Pflugerville; Justin Keener, for Doug Deason; Richard Evans,
             Engage Action; Earl Gilbert, Equality Texas; Dr. Rodney Hargrove,
             Global Harvest Ministry; Traci Berry, Goodwill Central Texas; Patricia
             Zavala, Jolt Action; Elizabeth Miller and Rene Perez, Libertarian Party of
             Texas; Bertha Rendon Delgado, Lulac Austin; Angel Carroll, MEASURE;
             Thomas Moore, No Sleep Until Justice; Clayton Tucker, Our Revolution
             Texas; Maggie Luna, Statewide Leadership Council; Alycia Castillo and
             Douglas Smith, Texas Criminal Justice Coalition; Carisa Lopez and
             Suseth Munoz, Texas Freedom Network; Louis Wichers, Texas Gun
             Sense; Frederick Haynes, Texas Impact; Devin Branch, Texas Organizing
             Project; Abigail Avila and Cerena Haefs, Texas Rising; Jason Vaughn,
             Texas Young Republicans; Nyeka Arnold, The Healing Project; Rebecca
             Bernhardt, The Innocence Project of Texas; Justin Moore, The Liberation
             Fund; Jorge Martinez, The LIBRE Initiative; and 46 individuals)

             Against — Jennifer Szimanski, CLEAT; (*Registered, but did not testify*:
             Frederick Frazier, Dallas Police Association and State FOP; James
             Parnell, Dallas Police Association; Ray Hunt, HPOU; Laura Nodolf,

Midland County District Attorney's Office; James Smith, San Antonio Police Department; AJ Louderback, Sheriffs Association of Texas; Dee Chambless, Smith County Republican Women; Kevin Lawrence, Texas Municipal Police Association and Texas Fraternal of Police; Stan Standridge, Texas Police Chiefs Association; Justin Berry; Michael Fossum; Russell Parish; Zoila Vega-marchena)

DIGEST: CSHB 830 would require Texas Southern University (TSU) to publish a written model policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that were punishable by fine only. TSU would have to publish the model policy by January 1, 2022.

The policy would have to provide a procedure for a peace officer to verify a person's identity and issue a citation. The policy also would have to comply with certain Penal Code and Transportation Code provisions as listed in the bill.

TSU would have to consult with law enforcement agencies, associations, and training experts and community organizations in the development of the model policy.

Each law enforcement agency would have to adopt a written cite-and-release policy for fine-only misdemeanors, including traffic offenses, that met the requirements for the model policy by March 1, 2022. A law enforcement agency also could adopt the model policy.

Under the bill, a peace officer could not arrest without warrant a person found only committing one or more fine-only misdemeanor traffic offenses. An officer would have to issue a written notice to appear for all fine-only misdemeanor traffic violations, rather than only for speeding, electronic messaging while operating a motor vehicle, or violating the open container law.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.

SUPPORTERS
SAY:

CSHB 830 would address concerns that many people across the state have been arrested for misdemeanor traffic offenses, such as seat belt violations or failure to use a turn signal, that are not punishable by jail time but only a fine, unnecessarily expending resources while not significantly contributing to public safety.

Being arrested for certain fine-only misdemeanor traffic offenses constitutes a more severe punishment than anything intended under the law and can have a lasting impact on a person's life. Being arrested subjects a person to jail time, additional costs, and potential trauma, which could result in negative consequences. By limiting the authority of police officers to arrest for such offenses and instead simply citing, releasing, and requiring a fine to be paid upon conviction, the bill would make the penalty for these offenses proportional to the crime.

Arrests for fine-only misdemeanor traffic offenses strain the criminal justice system and cost taxpayers money. Local jurisdictions pay hundreds of dollars for each person arrested. These costs include booking, jail intake processing, and housing individuals until their release, which can take hours or days. Requiring law enforcement agencies to adopt local cite-and-release policies would reduce the frequency of fine-only misdemeanor arrests and reduce the number of people in jails, which would save resources and money.

Eliminating arrests for these minor traffic offenses could reduce the possibility of incidents, making traffic stops safer for all. Taking people into custody can be risky or escalate a situation, resulting in potential harm to an officer or the person arrested. Texas law already prohibits an officer from arresting a person for speeding, and the bill simply would make that practice uniform for other minor traffic violations.

The bill would not take a tool away from law enforcement. Officers would retain the ability to make arrests for more serious offenses and could have the discretion to make an arrest if the officer had probable cause to believe that doing so would be in the best interest of the public. Further, the Fourth Amendment provides law enforcement with the adequate

framework to protect public safety and interdict crime.

Requiring supervisor approval for an arrest on a minor traffic offense would not be feasible and could not uniformly be applied across the state as law enforcement agencies of various sizes could face logistical hurdles. Current law related to speeding and some other fine-only offenses does not include an identification requirement. However, adding an identification requirement to any traffic stop could create a loophole for law enforcement to continue arresting people on the lowest level offenses, like speeding, which currently is handled with a written promise to appear.

Texas Southern University (TSU) would be an appropriate entity to publish the model cite-and-release policy. TSU already is conducting related research and, as a historically black university, could provide an important perspective. Additionally, the bill would require TSU to work with other stakeholders to develop the policy.

CRITICS
SAY:

CSHB 830 would take away an important tool from law enforcement and impede police officers' duties to enforce the law and protect the public. Currently, an officer has the discretion to make an arrest on most fine-only misdemeanor traffic offenses, and these arrests often lead to breaks in investigating more serious offenses and are sometimes used to get an offender momentarily off the street while not imposing a more serious charge. This discretion is used with intent and purpose, not malice.

To retain use of this tool, the bill should provide a process where an individual officer only could arrest on a fine-only misdemeanor traffic offense if approved by a supervisor or put through a review process. The bill also should provide that an officer would retain the ability to arrest a person for such minor offenses if the person either was unable or refused to positively identify himself or herself.

OTHER
CRITICS
SAY:

Other institutions, including other universities with a more robust focus on criminal justice and law enforcement policy, would be more suitable than Texas Southern University to develop the model cite-and-release policy.