

# [2017 Session] End Arrests for Non-Jailable Offenses

## Policy Background:

Law enforcement officers are permitted to arrest people for violations that do not have jail time as a punishment. Such offenses include minor traffic violations (e.g., speeding, registration issues, seatbelt violations, failure to signal a turn, etc.) and other nonviolent offenses (e.g., noise violations, littering, child support violations, etc.).

Many of these arrests occur at traffic stops. In fact, if a driver does not consent to a search of his or her vehicle, the officer may still arrest the person on the original traffic charge (if no citation has yet been issued), then search the vehicle “incident to arrest.” If no contraband is found, the person can simply be booked on that original charge. We all pay for extra officer, booking, and jail time when roadside fishing expeditions turn up nothing.

**Texas policy-makers should require a citation instead of an arrest for non-jailable violations**, with exceptions for alcohol-related offenses where officers should take a person off the street.

## Key Facts:

- TCJE reviewed all arrests in Harris County over a 16-week period from July 13, 2016, to October 5, 2016.<sup>1</sup>

Of the 23,578 people arrested during this period, 2,567 (11%) were arrested for Class C misdemeanors, which are punishable by a fine only. Of those, 763 people (30%) were arrested on a single Class C misdemeanor charge, mostly for a traffic violation.

The remaining 1,804 people were arrested on a combination of fine-only charges, mostly for insurance violations combined with registration, inspection, or other vehicle violations.

If this data is representative of the rest of the state, then tens of thousands of drivers are likely arrested for traffic infractions each year.

- Texas law already prohibits officers from arresting a person for speeding. Such an arrest constitutes officer misconduct.<sup>2</sup> And yet, among those in the dataset reviewed by TCJE who were arrested on a single traffic charge, this was the most common offense.
- In the dataset reviewed by TCJE, black people were arrested at high rates relative to their overall representation in the Harris County population, where they total approximately 20% of residents. Black drivers made up nearly half of all drivers arrested on a single non-jailable transportation offense, as well as 41.1% of all people jailed for other non-jailable offenses.

While approximately 70% of Harris County's population is white, white drivers made up only 22.9% and 24.0% of the arrests for traffic and other non-jailable offenses, respectively.

### Relevant Bills:

- **Bill Number:** [HB 567](#) [White, Coleman, Jarvis Johnson, Minjarez, Rinaldi]  
**Bill Caption:** Relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.  
**House Hearing Notice:** [Homeland Security & Public Safety, March 21, 2017](#)  
**TCJE House Action:** [Testimony in support](#)
- **Bill Number:** [HB 571](#) [Jarvis Johnson]  
**Bill Caption:** Relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.
- **Bill Number:** [HB 574](#) [Senfronia Thompson, White, Eric Johnson, Wu, Coleman]  
**Bill Caption:** Relating to a limitation on the authority to arrest a person for certain misdemeanors punishable by a fine only.  
**House Hearing Notice:** [Homeland Security & Public Safety, March 21, 2017](#)  
**TCJE House Action:** [Testimony in support](#)
- **Bill Number:** [HB 774](#) [Eric Johnson]  
**Bill Caption:** Relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.
- **Bill Number:** [HB 813](#) [Jarvis Johnson]  
**Bill Caption:** Relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.
- **Bill Number:** [HB 2702](#) [Coleman]  
**Bill Caption:** Relating to interactions between law enforcement and individuals

detained or arrested on suspicion of the commission of criminal offenses and the confinement or release of those individuals prior to prosecution.

**House Hearing Notice:** [Homeland Security & Public Safety, April 11, 2017](#)

**TCJE House Action:** [Testimony in support](#)

- **Bill Number:** [SB 271](#) [Burton]

**Bill Caption:** Relating to the issuance of a citation or notice to appear for certain misdemeanors punishable by a fine only.

**TCJE Materials:** [Fact Sheet](#)

- **Bill Number:** [SB 1849](#) [Whitmire; Sponsor: Coleman, Senfronia Thompson, Moody, Hunter, White]

**Bill Caption:** Relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

**Senate Hearing Notice:** [Criminal Justice, May 2, 2017](#)

**TCJE Senate Action:** [Card in support](#)

**House Hearing Minutes:** [Criminal Jurisprudence, May 15, 2017](#)

**Outcome:** *Signed by the Governor; effective on 9/1/17 (with provisions related to mental health training effective on 1/1/18)*

## **Other Bills Related to Non-Jailable Offenses:**

- **Bill Number:** [SB 47](#) [Zaffirini; Sponsor: Wu]

**Bill Caption:** Relating to a study on the availability of information regarding convictions and deferred dispositions for certain misdemeanors punishable by fine only.

**Senate Hearing Notice:** [Criminal Justice, April 25, 2017](#)

**TCJE Senate Action:** [Card "on" the bill](#)

**House Hearing Notice:** [Criminal Jurisprudence, May 11, 2017](#)

## **Other Materials:**

- TCJE Fact Sheet: [End Arrests for Violations That Do Not Have Jail Time as a Punishment](#) [November 2016]

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<sup>1</sup> During this period, a total of 23,578 people were arrested on 39,216 separate charges in Harris County, mostly for Class B misdemeanor offenses or higher.

<sup>2</sup> Transportation Code Art. 543.004 and 543.008.