



# HB 410

## FACT SHEET

### 2023 LEGISLATIVE SESSION

#### WHAT THE BILL DOES

**HB 410 seeks to establish a model cite-and-release policy for law enforcement agencies across the state.**

This model policy is to be created by Texas Southern University, in collaboration with the Bill Blackwood Law Enforcement Management Institute of Texas, law enforcement agencies, associations, and training experts, as well as community organizations engaged in the development of law enforcement policy. HB 410 also looks to eliminate the use of arrest on certain fine-only misdemeanors.

#### RESEARCH SUPPORTING POLICY CHANGE

**Cite-and-release policies reduce unnecessary exposure to detention and allow law enforcement to spend time addressing more serious and violent crimes, rather than booking individuals for minor and fine-only offenses.** The practice of issuing citations rather than making an arrest, especially for low-level, non-violent offenses is crucial to reforming the criminal justice system. It can relieve pressure on overcrowded jails and reduce court backlogs for minor offenses that will likely not be prosecuted.<sup>1</sup> Although arrests for low-level offenses usually do not result in more than a few days in jail, arrests are also very frequent in some jurisdictions facing extreme challenges in jail capacity.<sup>2</sup>

**There are approximately 1,084 law enforcement agencies that are tasked with “routinely making motor vehicle stops,” in the state.**<sup>3</sup> In 2022, Texas Appleseed in partnership with Dykema, conducted a survey to determine whether or not these law enforcement agencies have an explicit cite-and-release policy for their department and if so, which offenses apply (i.e., Class C misdemeanor, Class A & B misdemeanors per article 14.06 (c-d) of the Texas Code of Criminal Procedure, or both).<sup>4</sup> Out of the 1,084 agencies surveyed, 500 replied (i.e., about half of all applicable agencies, 46%). **Slightly over a quarter, 28%** (139 agencies), **responded “yes” to having a specific cite-and-release policy**; while **most indicated having none, 61%** (306 agencies). The remainder of respondents indicated “deferring to state law,” or “officer discretion” when making decisions to arrest on a citation-eligible charge.

Of the agencies that responded “yes” to having a cite-and-release policy for their department, almost half (48%) indicated that the policy *only* applies to Class C misdemeanors, while the other half (48%) expand beyond Class Cs to include Class A and B misdemeanors that also qualify for citation.<sup>5</sup> The remainder stipulated having a combination of the two, which in addition to Class C’s, only one or two of the qualifying Class A and B misdemeanors apply (e.g., possession of marijuana or driving with an invalid license).

**Where it has been implemented and studied, the findings show that cite-and-release policies save time and resources.**<sup>6</sup> In fact, one Texas county has seen a savings of roughly \$1.6 million annually in booking costs for each year its program has been in place.<sup>7</sup> Cite-and-release, as opposed to jail, can reduce the likelihood of future offending.<sup>8</sup> The longer low-risk defendants are detained, the more likely they are to engage in new criminal activity pretrial.<sup>9</sup> Since jail stays can also interfere with participation in the formal economy, those detained for low-level offenses may engage in the criminal economy to make ends meet. On the contrary, **cite-and-release policies can have a preventative effect on criminal activity** going forward.

## RECOMMENDATION

Texas Appleseed recommends the Texas Legislature adopt and implement HB 410, which would create a model cite-and-release policy for all law enforcement agencies across the state to adopt. Benefits of passing HB 410 include:

- ✔ **Allowing law enforcement to spend time addressing more serious and violent crimes.**
- ✔ **Reducing unnecessary exposure to pretrial detention, which has been shown to result in job loss, harsher penalties, and continued criminal activity.**
- ✔ **Reducing recidivism by managing low-risk, non-violent incidences in the community rather than through the carceral system.**
- ✔ **Saving taxpayer dollars that would otherwise be associated with pretrial detention.**

## REFERENCES & ENDNOTES

<sup>1</sup> Office of Court Administration (2021). Retrieved August 2, 2022, from <https://www.txcourts.gov/media/1454127/fy-21-annual-statistical-report-final.pdf>.

<sup>2</sup> Murney, M. (September 9, 2022). As Dallas County Jail population grows, felony judges push back against commissioners' criticisms. Kera News: News for North Texas. Retrieved from <https://www.keranews.org/government/2022-09-09/as-dallas-county-jail-population-grows-felony-judges-push-back-against-commissioners-criticisms>; Thorn, C. (September 1, 2022). Tarrant County to spend \$18million to house prisoners in Garza County. Community Impact. Retrieved from <https://communityimpact.com/dallas-fort-worth/keller-roanoke-northeast-fort-worth/city-county/2022/08/31/tarrant-county-to-spend-18-million-to-house-prisoners-in-garza-county/>; Murney, M. (September 9, 2022). State gives Harris County jail 30 days to fix overcrowding problems. The Houston Chronicle. Retrieved from <https://communityimpact.com/dallas-fort-worth/keller-roanoke-northeast-fort-worth/city-county/2022/08/31/tarrant-county-to-spend-18-million-to-house-prisoners-in-garza-county/>.

<sup>3</sup> Texas Commission on Law Enforcement (TCOLE). *Racial profiling reports: Law enforcement agency requirements*. Retrieved from <https://www.tcole.texas.gov/content/racial-profiling-reports> This # is based on the number of agencies required to report racial profiling data to the Commission, minus the agencies that have been deemed "exempt."

<sup>4</sup> This survey was conducted between June and December 2022, and was done in partnership with Dykema Gossett PLLC. Data on file with the author.

<sup>5</sup> Texas Code of Criminal Procedure. Article 14.06(c-d).

<sup>6</sup> San Antonio Police Department, Open Data Initiative. Retrieved August 17, 2022, from <https://www.sanantonio.gov/SAPD/SAPD-Open-Data-Initiative#182281929-open-data> ; Bexar County District Attorney, Cite And Release. Retrieved August 17, 2022, from <https://www.bexar.org/3322/Cite-Release/>.

<sup>7</sup> Ibid.

<sup>8</sup> Heaton, P., Mayson, S. & Stevenson, M. (2017). *The downstream consequences of misdemeanor pretrial detention*. Stanford Law Review, 69, 711-794.

<sup>9</sup> Lowenkamp, C.T., VanNostrand, M., & Holsinger, A. (2013). The hidden costs of pretrial detention. Lauren and John Arnold Foundation. Retrieved from <https://www.issueab.org/resources/16457/16457.pdf>



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