

Chapter 977

H.B. No. 351

1 AN ACT
2 relating to the administrative, civil, and criminal consequences,
3 including fines, fees, and costs, imposed on persons arrested for,
4 charged with, or convicted of certain criminal offenses and to the
5 creation of a commission to review certain penal laws of this state;
6 increasing a criminal penalty.

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

8 SECTION 1. Article 14.06(b), Code of Criminal Procedure, is
9 amended to read as follows:

10 (b) A peace officer who is charging a person, including a
11 child, with committing an offense that is a Class C misdemeanor,
12 other than an offense under Section 49.02, Penal Code, may, instead
13 of taking the person before a magistrate, issue a citation to the
14 person that contains:

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

17 (2) [~~] the name and address of the person charged;~~

18 (3) [~~] the offense charged;~~

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

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

1 "If you are convicted of a misdemeanor offense involving
2 violence where you are or were a spouse, intimate partner, parent,
3 or guardian of the victim or are or were involved in another,
4 similar relationship with the victim, it may be unlawful for you to
5 possess or purchase a firearm, including a handgun or long gun, or
6 ammunition, pursuant to federal law under 18 U.S.C. Section
7 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
8 questions whether these laws make it illegal for you to possess or
9 purchase a firearm, you should consult an attorney."

10 SECTION 2. Section 4(a), Article 17.42, Code of Criminal
11 Procedure, is amended to read as follows:

12 (a) Except as otherwise provided by this subsection, if [~~If~~
13 a court releases an accused on personal bond on the recommendation
14 of a personal bond office, the court shall assess a personal bond
15 fee of \$20 or three percent of the amount of the bail fixed for the
16 accused, whichever is greater. The court may waive the fee or
17 assess a lesser fee if good cause is shown. A court that requires a
18 defendant to give a personal bond under Article 45.016 may not
19 assess a personal bond fee under this subsection.

20 SECTION 3. Article 27.14(b), Code of Criminal Procedure, is
21 amended to read as follows:

22 (b) A defendant charged with a misdemeanor for which the
23 maximum possible punishment is by fine only may, in lieu of the
24 method provided in Subsection (a) [~~of this article~~], mail or
25 deliver in person to the court a plea of "guilty" or a plea of "nolo
26 contendere" and a waiver of jury trial. The defendant may also
27 request in writing that the court notify the defendant, at the

1 address stated in the request, of the amount of an appeal bond that
2 the court will approve. If the court receives a plea and waiver
3 before the time the defendant is scheduled to appear in court, the
4 court shall dispose of the case without requiring a court
5 appearance by the defendant. If the court receives a plea and
6 waiver after the time the defendant is scheduled to appear in court
7 but at least five business days before a scheduled trial date, the
8 court shall dispose of the case without requiring a court
9 appearance by the defendant. The court shall notify the defendant
10 either in person or by regular [~~certified~~] mail[~~, return receipt~~
11 ~~requested,~~] of the amount of any fine or costs assessed in the case,
12 information regarding the alternatives to the full payment of any
13 fine or costs assessed against the defendant, if the defendant is
14 unable to pay that amount, and, if requested by the defendant, the
15 amount of an appeal bond that the court will approve. Except as
16 otherwise provided by this code, the [The] defendant shall pay any
17 fine or costs assessed or give an appeal bond in the amount stated
18 in the notice before the 31st day after receiving the notice.

19 SECTION 4. Article 42.15, Code of Criminal Procedure, is
20 amended by adding Subsection (a-1) and amending Subsection (b) to
21 read as follows:

22 (a-1) Notwithstanding any other provision of this article,
23 during or immediately after imposing a sentence in a case in which
24 the defendant entered a plea in open court as provided by Article
25 27.13, 27.14(a), or 27.16(a), a court shall inquire whether the
26 defendant has sufficient resources or income to immediately pay all
27 or part of the fine and costs. If the court determines that the

1 defendant does not have sufficient resources or income to
2 immediately pay all or part of the fine and costs, the court shall
3 determine whether the fine and costs should be:

4 (1) required to be paid at some later date or in a
5 specified portion at designated intervals;

6 (2) discharged by performing community service under,
7 as applicable, Article 43.09(f), Article 45.049, Article 45.0492,
8 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
9 Regular Session, 2011, or Article 45.0492, as added by Chapter 777
10 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;

11 (3) waived in full or in part under Article 43.091 or
12 45.0491; or

13 (4) satisfied through any combination of methods under
14 Subdivisions (1)-(3).

15 (b) Subject to Subsections (c) and (d) and Article 43.091,
16 when imposing a fine and costs, a court may direct a defendant:

17 (1) to pay the entire fine and costs when sentence is
18 pronounced;

19 (2) to pay the entire fine and costs at some later
20 date; or

21 (3) to pay a specified portion of the fine and costs at
22 designated intervals.

23 SECTION 5. (a) Article 42A.602(a), Code of Criminal
24 Procedure, is amended to read as follows:

25 (a) If a judge requires as a condition of community
26 supervision or participation in a pretrial intervention program
27 operated under Section 76.011, Government Code, or a drug court

1 program established under Chapter 123, Government Code, or former
2 law that the defendant serve a term of confinement in a community
3 corrections facility, the term may not exceed 24 months.

4 (b) Article 42A.604(a), Code of Criminal Procedure, is
5 amended to read as follows:

6 (a) As directed by the judge, the community corrections
7 facility director shall file with the community supervision and
8 corrections department director or administrator of a drug court
9 program, as applicable, a copy of an evaluation made by the facility
10 director of the defendant's behavior and attitude at the facility.
11 The community supervision and corrections department director or
12 program administrator shall examine the evaluation, make written
13 comments on the evaluation that the director or administrator
14 considers relevant, and file the evaluation and comments with the
15 judge who granted community supervision to the defendant or placed
16 the defendant in a pretrial intervention program or drug court
17 program. If the evaluation indicates that the defendant has made
18 significant progress toward compliance with court-ordered
19 conditions of community supervision or objectives of placement in
20 the [~~drug court~~] program, as applicable, the judge may release the
21 defendant from the community corrections facility. A defendant who
22 served a term in the facility as a condition of community
23 supervision shall serve the remainder of the defendant's community
24 supervision under any terms and conditions the court imposes under
25 this chapter.

26 (c) Section 509.001(1), Government Code, is amended to read
27 as follows:

1 (1) "Community corrections facility" means a physical
2 structure, established by the judges described by Section 76.002
3 after authorization of the establishment of the structure has been
4 included in a department's strategic plan, that is operated by the
5 department or operated for the department by an entity under
6 contract with the department, for the purpose of treating persons
7 who have been placed on community supervision or who are
8 participating in a pretrial intervention program operated under
9 Section 76.011 or a drug court program established under Chapter
10 123 or former law and providing services and programs to modify
11 criminal behavior, deter criminal activity, protect the public, and
12 restore victims of crime. The term includes:

- 13 (A) a restitution center;
14 (B) a court residential treatment facility;
15 (C) a substance abuse treatment facility;
16 (D) a custody facility or boot camp;
17 (E) a facility for an offender with a mental
18 impairment, as defined by Section 614.001, Health and Safety Code;
19 and
20 (F) an intermediate sanction facility.

21 (d) The change in law made by this section applies only to a
22 person placed in a pretrial intervention program operated under
23 Section 76.011, Government Code, for an offense committed on or
24 after the effective date of this Act. A person placed in a pretrial
25 intervention program operated under Section 76.011, Government
26 Code, for an offense committed before the effective date of this Act
27 is governed by the law in effect on the date the offense was

1 committed, and the former law is continued in effect for that
2 purpose. For purposes of this subsection, an offense was committed
3 before the effective date of this Act if any element of the offense
4 was committed before that date.

5 SECTION 6. Article 43.05, Code of Criminal Procedure, is
6 amended by adding Subsections (a-1) and (a-2) to read as follows:

7 (a-1) Before a court may issue a capias pro fine for the
8 defendant's failure to satisfy the judgment according to its terms:

9 (1) the court must provide by regular mail to the
10 defendant notice that includes:

11 (A) a statement that the defendant has failed to
12 satisfy the judgment according to its terms; and

13 (B) a date and time when the court will hold a
14 hearing on the defendant's failure to satisfy the judgment
15 according to its terms; and

16 (2) either:

17 (A) the defendant fails to appear at the hearing;

18 or

19 (B) based on evidence presented at the hearing,
20 the court determines that the capias pro fine should be issued.

21 (a-2) The court shall recall a capias pro fine if, before
22 the capias pro fine is executed:

23 (1) the defendant voluntarily appears to resolve the
24 amount owed; and

25 (2) the amount owed is resolved in any manner
26 authorized by this code.

27 SECTION 7. Article 43.09, Code of Criminal Procedure, is

1 amended by amending Subsections (a), (g), (h), (j), and (l) and
2 adding Subsection (h-1) to read as follows:

3 (a) When a defendant is convicted of a misdemeanor and the
4 defendant's [~~his~~] punishment is assessed at a pecuniary fine or is
5 confined in a jail after conviction of a felony for which a fine is
6 imposed, if the defendant [~~he~~] is unable to pay the fine and costs
7 adjudged against the defendant [~~him~~], the defendant [~~he~~] may for
8 such time as will satisfy the judgment be put to work in the county
9 jail industries program, in the workhouse, or on the county farm, or
10 public improvements and maintenance projects of the county or a
11 political subdivision located in whole or in part in the county, as
12 provided in Article 43.10 [~~the succeeding article~~]; or if there is
13 [~~be~~] no such county jail industries program, workhouse, farm, or
14 improvements and maintenance projects, the defendant [~~he~~] shall be
15 confined in jail for a sufficient length of time to discharge the
16 full amount of fine and costs adjudged against the defendant [~~him~~];
17 rating such confinement at \$100 [~~\$50~~] for each day and rating such
18 labor at \$100 [~~\$50~~] for each day; provided, however, that the
19 defendant may pay the pecuniary fine assessed against the defendant
20 [~~him~~] at any time while the defendant [~~he~~] is serving at work in the
21 county jail industries program, in the workhouse, or on the county
22 farm, or on the public improvements and maintenance projects of the
23 county or a political subdivision located in whole or in part in the
24 county, or while the defendant [~~he~~] is serving the defendant's
25 [~~his~~] jail sentence, and in such instances the defendant is [~~he~~
26 ~~shall be~~] entitled to the credit [~~he has~~] earned under this
27 subsection during the time that the defendant [~~he~~] has served and

1 the defendant [~~he~~] shall only be required to pay the [~~his~~] balance
2 of the pecuniary fine assessed against the defendant [~~him~~]. A
3 defendant who performs labor under this article during a day in
4 which the defendant [~~he~~] is confined is entitled to both the credit
5 for confinement and the credit for labor provided by this article.

6 (g) In the court's [~~its~~] order requiring a defendant to
7 perform [~~participate in~~] community service [~~work~~] under Subsection
8 (f) [~~of this article~~], the court must specify:

9 (1) the number of hours of community service the
10 defendant is required to perform [~~work~~]; [~~and~~]

11 (2) whether the community supervision and corrections
12 department or a court-related services office will perform the
13 administrative duties required by the placement of the defendant in
14 the community service program; and

15 (3) the date by which the defendant must submit to the
16 court documentation verifying the defendant's completion of the
17 community service.

18 (h) The court may order the defendant to perform community
19 service [~~work~~] under Subsection (f):

20 (1) by attending:

21 (A) a work and job skills training program;

22 (B) a preparatory class for the high school
23 equivalency examination administered under Section 7.111,
24 Education Code;

25 (C) an alcohol or drug abuse program;

26 (D) a rehabilitation program;

27 (E) a counseling program, including a

1 self-improvement program;

2 (F) a mentoring program; or

3 (G) any similar activity; or

4 (2) ~~[of this article only]~~ for:

5 (A) a governmental entity;

6 (B) ~~[or]~~ a nonprofit organization or another
7 organization that provides services to the general public that
8 enhance social welfare and the general well-being of the community,
9 as determined by the court; or

10 (C) an educational institution.

11 (h-1) An ~~[A governmental]~~ entity ~~[or nonprofit~~
12 ~~organization]~~ that accepts a defendant under Subsection (f) ~~[of~~
13 ~~this article]~~ to perform community service must agree to supervise,
14 either on-site or remotely, the defendant in the performance of the
15 defendant's community service ~~[work]~~ and report on the defendant's
16 community service ~~[work]~~ to the district probation department or
17 court-related services office.

18 (j) A court may not order a defendant to perform more than 16
19 hours per week of community service under Subsection (f) ~~[of this~~
20 ~~article]~~ unless the court determines that requiring the defendant
21 to perform ~~[work]~~ additional hours does not impose an undue ~~[work-a]~~
22 hardship on the defendant or the defendant's dependents.

23 (l) A sheriff, employee of a sheriff's department, county
24 commissioner, county employee, county judge, an employee of a
25 community corrections and supervision department, restitution
26 center, or officer or employee of a political subdivision other
27 than a county or an entity that accepts a defendant under this

1 article to perform community service is not liable for damages
2 arising from an act or failure to act in connection with manual
3 labor performed by an inmate or community service performed by a
4 defendant under [~~pursuant to~~] this article if the act or failure to
5 act:

6 (1) was performed pursuant to confinement or other
7 court order; and

8 (2) was not intentional, wilfully or wantonly
9 negligent, or performed with conscious indifference or reckless
10 disregard for the safety of others.

11 SECTION 8. Article 43.091, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
14 CERTAIN [~~INDIGENT~~] DEFENDANTS AND FOR CHILDREN. A court may waive
15 payment of all or part of a fine or costs [~~cost~~] imposed on a
16 defendant [~~who defaults in payment~~] if the court determines that:

17 (1) the defendant is indigent or does not have
18 sufficient resources or income to pay all or part of the fine or
19 costs or was, at the time the offense was committed, a child as
20 defined by Article 45.058(h); and

21 (2) each alternative method of discharging the fine or
22 cost under Article 43.09 or 42.15 would impose an undue hardship on
23 the defendant.

24 SECTION 9. Article 45.014, Code of Criminal Procedure, is
25 amended by adding Subsections (e), (f), and (g) to read as follows:

26 (e) A justice or judge may not issue an arrest warrant for
27 the defendant's failure to appear at the initial court setting,

1 including failure to appear as required by a citation issued under
2 Article 14.06(b), unless:

3 (1) the justice or judge provides by telephone or
4 regular mail to the defendant notice that includes:

5 (A) a date and time when the defendant must
6 appear before the justice or judge;

7 (B) the name and address of the court with
8 jurisdiction in the case;

9 (C) information regarding alternatives to the
10 full payment of any fine or costs owed by the defendant, if the
11 defendant is unable to pay that amount; and

12 (D) an explanation of the consequences if the
13 defendant fails to appear before the justice or judge as required by
14 this article; and

15 (2) the defendant fails to appear before the justice
16 or judge as required by this article.

17 (f) A defendant who receives notice under Subsection (e) may
18 request an alternative date or time to appear before the justice or
19 judge if the defendant is unable to appear on the date and time
20 included in the notice.

21 (g) A justice or judge shall recall an arrest warrant for
22 the defendant's failure to appear if, before the arrest warrant is
23 executed:

24 (1) the defendant voluntarily appears to resolve the
25 arrest warrant; and

26 (2) the arrest warrant is resolved in any manner
27 authorized by this code.

1 SECTION 10. Article 45.016, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 45.016. PERSONAL BOND; BAIL BOND. (a) The justice or
4 judge may require the defendant to give a personal bond [~~bail~~] to
5 secure the defendant's appearance in accordance with this code.

6 (b) The justice or judge may not, either instead of or in
7 addition to the personal bond, require a defendant to give a bail
8 bond unless:

9 (1) the defendant fails to appear in accordance with
10 this code with respect to the applicable offense; and

11 (2) the justice or judge determines that:

12 (A) the defendant has sufficient resources or
13 income to give a bail bond; and

14 (B) a bail bond is necessary to secure the
15 defendant's appearance in accordance with this code.

16 (c) If a defendant required to give a bail bond under
17 Subsection (b) remains in custody, without giving the bond, for
18 more than 48 hours after the issuance of the applicable order, the
19 justice or judge shall reconsider the requirement for the defendant
20 to give the bond.

21 (d) If the defendant refuses to give a personal bond or,
22 except as provided by Subsection (c), refuses or otherwise fails to
23 give a bail bond, the defendant may be held in custody.

24 SECTION 11. Article 45.041, Code of Criminal Procedure, is
25 amended by adding Subsection (a-1) and amending Subsection (b) to
26 read as follows:

27 (a-1) Notwithstanding any other provision of this article,

1 during or immediately after imposing a sentence in a case in which
2 the defendant entered a plea in open court as provided by Article
3 27.14(a) or 27.16(a), the justice or judge shall inquire whether
4 the defendant has sufficient resources or income to immediately pay
5 all or part of the fine and costs. If the justice or judge
6 determines that the defendant does not have sufficient resources or
7 income to immediately pay all or part of the fine and costs, the
8 justice or judge shall determine whether the fine and costs should
9 be:

10 (1) required to be paid at some later date or in a
11 specified portion at designated intervals;

12 (2) discharged by performing community service under,
13 as applicable, Article 45.049, Article 45.0492, as added by Chapter
14 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session,
15 2011, or Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts
16 of the 82nd Legislature, Regular Session, 2011;

17 (3) waived in full or in part under Article 45.0491; or

18 (4) satisfied through any combination of methods under
19 Subdivisions (1)-(3).

20 (b) Subject to Subsections (b-2) and (b-3) and Article
21 45.0491, the justice or judge may direct the defendant:

22 (1) to pay:

23 (A) the entire fine and costs when sentence is
24 pronounced;

25 (B) the entire fine and costs at some later date;

26 or

27 (C) a specified portion of the fine and costs at

1 designated intervals;

2 (2) if applicable, to make restitution to any victim
3 of the offense; and

4 (3) to satisfy any other sanction authorized by law.

5 SECTION 12. Article 45.0425(a), Code of Criminal Procedure,
6 is amended to read as follows:

7 (a) If the court from whose judgment and sentence the appeal
8 is taken is in session, the court must approve the bail. The amount
9 of an appeal [~~a bail~~] bond may not be less than two times the amount
10 of the fine and costs adjudged against the defendant, payable to the
11 State of Texas. The appeal bond [~~bail~~] may not in any case be for an
12 amount [~~a sum~~] less than \$50. If the appeal bond otherwise meets
13 the requirements of this code, the court without requiring a court
14 appearance by the defendant shall approve the appeal bond in the
15 amount the court under Article 27.14(b) notified the defendant
16 would be approved.

17 SECTION 13. Article 45.045, Code of Criminal Procedure, is
18 amended by adding Subsections (a-2) and (a-3) to read as follows:

19 (a-2) Before a court may issue a capias pro fine for the
20 defendant's failure to satisfy the judgment according to its terms:

21 (1) the court must provide by regular mail to the
22 defendant notice that includes:

23 (A) a statement that the defendant has failed to
24 satisfy the judgment according to its terms; and

25 (B) a date and time when the court will hold a
26 hearing on the defendant's failure to satisfy the judgment
27 according to its terms; and

- 1 (2) either:
2 (A) the defendant fails to appear at the hearing;
3 or
4 (B) based on evidence presented at the hearing,
5 the court determines that the capias pro fine should be issued.
6 (a-3) The court shall recall a capias pro fine if, before
7 the capias pro fine is executed:
8 (1) the defendant voluntarily appears to resolve the
9 amount owed; and
10 (2) the amount owed is resolved in any manner
11 authorized by this chapter.

12 SECTION 14. Article 45.046(a), Code of Criminal Procedure,
13 is amended to read as follows:

14 (a) When a judgment and sentence have been entered against a
15 defendant and the defendant defaults in the discharge of the
16 judgment, the judge may order the defendant confined in jail until
17 discharged by law if the judge at a hearing makes a written
18 determination that:

19 (1) the defendant is not indigent and has failed to
20 make a good faith effort to discharge the fine or [~~and~~] costs; or

21 (2) the defendant is indigent and:

22 (A) has failed to make a good faith effort to
23 discharge the fine or [~~finer and~~] costs under Article 45.049; and

24 (B) could have discharged the fine or [~~finer and~~]
25 costs under Article 45.049 without experiencing any undue hardship.

26 SECTION 15. Article 45.048, Code of Criminal Procedure, is
27 amended to read as follows:

1 Art. 45.048. DISCHARGED FROM JAIL. (a) A defendant placed
2 in jail on account of failure to pay the fine and costs shall be
3 discharged on habeas corpus by showing that the defendant:

- 4 (1) is too poor to pay the fine and costs; or
5 (2) has remained in jail a sufficient length of time to
6 satisfy the fine and costs, at the rate of not less than \$100 [~~\$50~~]
7 for each period [~~of time~~] served, as specified by the convicting
8 court in the judgment in the case.

9 (b) A convicting court may specify a period [~~of time~~] that
10 is not less than eight hours or more than 24 hours as the period for
11 which a defendant who fails to pay the fine [~~finer~~] and costs in the
12 case must remain in jail to satisfy \$100 [~~\$50~~] of the fine and
13 costs.

14 SECTION 16. Article 45.049, Code of Criminal Procedure, is
15 amended by amending Subsections (b), (c), (d), (e), (f), and (g) and
16 adding Subsection (c-1) to read as follows:

17 (b) In the justice's or judge's order requiring a defendant
18 to perform [~~participate in~~] community service [~~work~~] under this
19 article, the justice or judge must specify:

20 (1) the number of hours of community service the
21 defendant is required to perform; and

22 (2) the date by which the defendant must submit to the
23 court documentation verifying the defendant's completion of the
24 community service [~~work~~].

25 (c) The justice or judge may order the defendant to perform
26 community service [~~work~~] under this article:

27 (1) by attending:

- 1 (A) a work and job skills training program;
2 (B) a preparatory class for the high school
3 equivalency examination administered under Section 7.111,
4 Education Code;
5 (C) an alcohol or drug abuse program;
6 (D) a rehabilitation program;
7 (E) a counseling program, including a
8 self-improvement program;
9 (F) a mentoring program; or
10 (G) any similar activity; or

11 (2) [only] for:

- 12 (A) a governmental entity;
13 (B) [~~or~~] a nonprofit organization or another
14 organization that provides services to the general public that
15 enhance social welfare and the general well-being of the community,
16 as determined by the justice or judge; or
17 (C) an educational institution.

18 (c-1) An [A—governmental] entity [~~or—nonprofit~~
19 organization] that accepts a defendant under this article to
20 perform community service must agree to supervise, either on-site
21 or remotely, the defendant in the performance of the defendant's
22 community service [~~work~~] and report on the defendant's community
23 service [~~work~~] to the justice or judge who ordered the [~~community~~]
24 service.

25 (d) A justice or judge may not order a defendant to perform
26 more than 16 hours per week of community service under this article
27 unless the justice or judge determines that requiring the defendant

1 to perform [~~work~~] additional hours does not impose an undue [~~work-a~~
2 hardship on the defendant or the defendant's dependents.

3 (e) A defendant is considered to have discharged not less
4 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
5 service performed under this article.

6 (f) A sheriff, employee of a sheriff's department, county
7 commissioner, county employee, county judge, justice of the peace,
8 municipal court judge, or officer or employee of a political
9 subdivision other than a county or an entity that accepts a
10 defendant under this article to perform community service is not
11 liable for damages arising from an act or failure to act in
12 connection with community service [~~manual labor~~] performed by a
13 defendant under this article if the act or failure to act:

14 (1) was performed pursuant to court order; and

15 (2) was not intentional, wilfully or wantonly
16 negligent, or performed with conscious indifference or reckless
17 disregard for the safety of others.

18 (g) This subsection applies only to a defendant who is
19 charged with a traffic offense or an offense under Section 106.05,
20 Alcoholic Beverage Code, and is a resident of this state. If under
21 Article 45.051(b)(10), Code of Criminal Procedure, the judge
22 requires the defendant to perform community service as a condition
23 of the deferral, the defendant is entitled to elect whether to
24 perform the required [~~governmental entity or nonprofit~~
25 ~~organization-community~~] service in:

26 (1) the county in which the court is located; or

27 (2) the county in which the defendant resides, but

1 only if the applicable entity [~~or organization~~] agrees to:

2 (A) supervise, either on-site or remotely, the
3 defendant in the performance of the defendant's community service
4 [~~work~~]; and

5 (B) report to the court on the defendant's
6 community service [~~work~~].

7 SECTION 17. Article 45.0491, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
10 CERTAIN [~~INDIGENT~~] DEFENDANTS AND FOR CHILDREN. A municipal court,
11 regardless of whether the court is a court of record, or a justice
12 court may waive payment of all or part of a fine or costs imposed on
13 a defendant [~~who defaults in payment~~] if the court determines that:

14 (1) the defendant is indigent or does not have
15 sufficient resources or income to pay all or part of the fine or
16 costs or was, at the time the offense was committed, a child as
17 defined by Article 45.058(h); and

18 (2) discharging the fine or [~~and~~] costs under Article
19 45.049 or as otherwise authorized by this chapter would impose an
20 undue hardship on the defendant.

21 SECTION 18. The heading to Article 45.0492, Code of
22 Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the
23 82nd Legislature, Regular Session, 2011, is amended to read as
24 follows:

25 Art. 45.0492. COMMUNITY SERVICE [~~OR TUTORING~~] IN
26 SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS.

27 SECTION 19. Article 45.0492, Code of Criminal Procedure, as

1 added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
2 Regular Session, 2011, is amended by amending Subsections (b), (c),
3 (d), (f), (g), and (h) and adding Subsection (d-1) to read as
4 follows:

5 (b) A justice or judge may require a defendant described by
6 Subsection (a) to discharge all or part of the fine or costs by
7 performing community service [~~or attending a tutoring program that~~
8 ~~is satisfactory to the court~~]. A defendant may discharge an
9 obligation to perform community service [~~or attend a tutoring~~
10 ~~program~~] under this article by paying at any time the fine and costs
11 assessed.

12 (c) In the justice's or judge's order requiring a defendant
13 to perform [~~participate in~~] community service [~~work or a tutoring~~
14 ~~program~~] under this article, the justice or judge must specify:

15 (1) the number of hours of community service the
16 defendant is required to perform; and

17 (2) the date by which the defendant must submit to the
18 court documentation verifying the defendant's completion of the
19 community service [~~work or attend tutoring~~].

20 (d) The justice or judge may order the defendant to perform
21 community service [~~work~~] under this article:

22 (1) by attending:

23 (A) a work and job skills training program;

24 (B) a preparatory class for the high school
25 equivalency examination administered under Section 7.111,
26 Education Code;

27 (C) an alcohol or drug abuse program;

1 (D) a rehabilitation program;

2 (E) a counseling program, including a
3 self-improvement program;

4 (F) a mentoring program;

5 (G) a tutoring program; or

6 (H) any similar activity; or

7 (2) [only] for:

8 (A) a governmental entity;

9 (B) [or] a nonprofit organization or another
10 organization that provides services to the general public that
11 enhance social welfare and the general well-being of the community,
12 as determined by the justice or judge; or

13 (C) an educational institution.

14 (d-1) An [A—governmental] entity [or—nonprofit
15 organization] that accepts a defendant under this article to
16 perform community service must agree to supervise, either on-site
17 or remotely, the defendant in the performance of the defendant's
18 community service [work] and report on the defendant's community
19 service [work] to the justice or judge who ordered the [community]
20 service.

21 (f) A justice or judge may not order a defendant to perform
22 more than 16 hours of community service per week [~~or attend more~~
23 ~~than 16 hours of tutoring per week]~~ under this article unless the
24 justice or judge determines that requiring the defendant to perform
25 additional hours [~~of work or tutoring]~~ does not impose an undue
26 [~~cause a~~] hardship on the defendant or the defendant's family. For
27 purposes of this subsection, "family" has the meaning assigned by

1 Section 71.003, Family Code.

2 (g) A defendant is considered to have discharged not less
3 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
4 service performed [~~or tutoring program attended~~] under this
5 article.

6 (h) A sheriff, employee of a sheriff's department, county
7 commissioner, county employee, county judge, justice of the peace,
8 municipal court judge, or officer or employee of a political
9 subdivision other than a county or an entity that accepts a
10 defendant under this article to perform community service[~~r~~
11 ~~nonprofit organization, or tutoring program~~] is not liable for
12 damages arising from an act or failure to act in connection with
13 community service [~~an activity~~] performed by a defendant under this
14 article if the act or failure to act:

15 (1) was performed pursuant to court order; and

16 (2) was not intentional, grossly negligent, or
17 performed with conscious indifference or reckless disregard for the
18 safety of others.

19 SECTION 20. Article 45.0492, Code of Criminal Procedure, as
20 added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature,
21 Regular Session, 2011, is amended by amending Subsections (c), (d),
22 (e), and (f) and adding Subsections (d-1) and (h) to read as
23 follows:

24 (c) In the justice's or judge's order requiring a defendant
25 to perform community service under this article, the justice or
26 judge shall specify:

27 (1) the number of hours of community service the

1 defendant is required to perform, [~~and may~~] not to exceed [~~order~~
2 ~~more than~~] 200 hours; and

3 (2) the date by which the defendant must submit to the
4 court documentation verifying the defendant's completion of the
5 community service.

6 (d) The justice or judge may order the defendant to perform
7 community service [~~work~~] under this article:

8 (1) by attending:

9 (A) a work and job skills training program;

10 (B) a preparatory class for the high school
11 equivalency examination administered under Section 7.111,
12 Education Code;

13 (C) an alcohol or drug abuse program;

14 (D) a rehabilitation program;

15 (E) a counseling program, including a
16 self-improvement program;

17 (F) a mentoring program; or

18 (G) any similar activity; or

19 (2) [only] for:

20 (A) a governmental entity;

21 (B) [~~or~~] a nonprofit organization or another
22 organization that provides services to the general public that
23 enhance social welfare and the general well-being of the community,
24 as determined by the justice or judge; or

25 (C) an educational institution.

26 (d-1) An [A—governmental] entity [or—nonprofit
27 organization] that accepts a defendant under this article to

1 perform community service must agree to supervise, either on-site
2 or remotely, the defendant in the performance of the defendant's
3 community service [~~work~~] and report on the defendant's community
4 service [~~work~~] to the justice or judge who ordered the [~~community~~]
5 service.

6 (e) A justice or judge may not order a defendant to perform
7 more than 16 hours of community service per week under this article
8 unless the justice or judge determines that requiring the defendant
9 to perform additional hours [~~of work~~] does not impose an undue
10 [~~cause a~~] hardship on the defendant or the defendant's family. For
11 purposes of this subsection, "family" has the meaning assigned by
12 Section 71.003, Family Code.

13 (f) A sheriff, employee of a sheriff's department, county
14 commissioner, county employee, county judge, justice of the peace,
15 municipal court judge, or officer or employee of a political
16 subdivision other than a county or an entity that accepts a
17 defendant under this article to perform community service is not
18 liable for damages arising from an act or failure to act in
19 connection with community service performed by a defendant under
20 this article if the act or failure to act:

- 21 (1) was performed pursuant to court order; and
22 (2) was not intentional, wilfully or wantonly
23 negligent, or performed with conscious indifference or reckless
24 disregard for the safety of others.

25 (h) A defendant is considered to have discharged not less
26 than \$100 of fines or costs for each eight hours of community
27 service performed under this article.

1 SECTION 21. Article 45.051(a), Code of Criminal Procedure,
2 is amended to read as follows:

3 (a) On a plea of guilty or nolo contendere by a defendant or
4 on a finding of guilt in a misdemeanor case punishable by fine only
5 and payment of all court costs, the judge may defer further
6 proceedings without entering an adjudication of guilt and place the
7 defendant on probation for a period not to exceed 180 days. In
8 issuing the order of deferral, the judge may impose a special
9 expense fee on the defendant in an amount not to exceed the amount
10 of the fine that could be imposed on the defendant as punishment for
11 the offense. The special expense fee may be collected at any time
12 before the date on which the period of probation ends. The judge
13 may elect not to impose the special expense fee for good cause shown
14 by the defendant. If the judge orders the collection of a special
15 expense fee, the judge shall require that the amount of the special
16 expense fee be credited toward the payment of the amount of the fine
17 imposed by the judge. An order of deferral under this subsection
18 terminates any liability under a [~~bail bond or an appearance~~] bond
19 given for the charge.

20 SECTION 22. Article 45.0511(t), Code of Criminal Procedure,
21 is amended to read as follows:

22 (t) An order of deferral under Subsection (c) terminates any
23 liability under a [~~bail bond or appearance~~] bond given for the
24 charge.

25 SECTION 23. Article 102.0071, Code of Criminal Procedure,
26 is amended to read as follows:

27 Art. 102.0071. JUSTICE COURT DISHONORED CHECK OR SIMILAR

1 SIGHT ORDER. On conviction in justice court of an offense under
2 Section 32.41, Penal Code, or an offense under Section 31.03, ~~[or]~~
3 31.04, or 32.21, Penal Code, in which it is shown that the defendant
4 committed the offense by issuing, ~~[or]~~ passing, or forging a check
5 or similar sight order, as defined by Section 1.07, Penal Code, that
6 was subsequently dishonored, the court may collect from the
7 defendant and pay to the holder of the check or order the fee
8 permitted by Section 3.506, Business & Commerce Code.

9 SECTION 24. Article 103.0031(j), Code of Criminal
10 Procedure, is amended to read as follows:

11 (j) A communication to the accused person regarding the
12 amount of payment that is acceptable to the court under the court's
13 standard policy for resolution of a case must include:

14 (1) a notice of the person's right to enter a plea or go
15 to trial on any offense charged; and

16 (2) a statement that, if the person is unable to pay
17 the full amount of payment that is acceptable to the court, the
18 person should contact the court regarding the alternatives to full
19 payment that are available to resolve the case.

20 SECTION 25. Section 32.21, Penal Code, is amended by
21 amending Subsections (d), (e), and (e-1) and adding Subsections
22 (e-2) and (g) to read as follows:

23 (d) Subject to Subsection (e-1), an ~~[An]~~ offense under this
24 section is a state jail felony if the writing is or purports to be a
25 will, codicil, deed, deed of trust, mortgage, security instrument,
26 security agreement, credit card, check, authorization to debit an
27 account at a financial institution, or similar sight order for

1 payment of money, contract, release, or other commercial
2 instrument.

3 (e) Subject to Subsection (e-1), an [An] offense under this
4 section is a felony of the third degree if the writing is or
5 purports to be:

6 (1) part of an issue of money, securities, postage or
7 revenue stamps;

8 (2) a government record listed in Section 37.01(2)(C);
9 or

10 (3) other instruments issued by a state or national
11 government or by a subdivision of either, or part of an issue of
12 stock, bonds, or other instruments representing interests in or
13 claims against another person.

14 (e-1) If it is shown on the trial of an offense under this
15 section that the actor engaged in the conduct to obtain or attempt
16 to obtain a property or service, an offense under this section is:

17 (1) a Class C misdemeanor if the value of the property
18 or service is less than \$100;

19 (2) a Class B misdemeanor if the value of the property
20 or service is \$100 or more but less than \$750;

21 (3) a Class A misdemeanor if the value of the property
22 or service is \$750 or more but less than \$2,500;

23 (4) a state jail felony if the value of the property or
24 service is \$2,500 or more but less than \$30,000;

25 (5) a felony of the third degree if the value of the
26 property or service is \$30,000 or more but less than \$150,000;

27 (6) a felony of the second degree if the value of the

1 property or service is \$150,000 or more but less than \$300,000; and
2 (7) a felony of the first degree if the value of the
3 property or service is \$300,000 or more.

4 (e-2) Notwithstanding any other provision of this section,
5 an [An] offense under this section, other than an offense described
6 for purposes of punishment by Subsection (e-1)(7), is increased to
7 the next higher category of offense if it is shown on the trial of
8 the offense that the offense was committed against an elderly
9 individual as defined by Section 22.04.

10 (g) If conduct that constitutes an offense under this
11 section also constitutes an offense under any other law, the actor
12 may be prosecuted under this section or the other law.

13 SECTION 26. Section 502.010, Transportation Code, is
14 amended by amending Subsections (a) and (c) and adding Subsections
15 (b-1), (i), and (j) to read as follows:

16 (a) Except as otherwise provided by this section, a [A]
17 county assessor-collector or the department may refuse to register
18 a motor vehicle if the assessor-collector or the department
19 receives information that the owner of the vehicle:

20 (1) owes the county money for a fine, fee, or tax that
21 is past due; or

22 (2) failed to appear in connection with a complaint,
23 citation, information, or indictment in a court in the county in
24 which a criminal proceeding is pending against the owner.

25 (b-1) Information that is provided to make a determination
26 under Subsection (a)(1) and that concerns the past due status of a
27 fine or fee imposed for a criminal offense and owed to the county

1 expires on the second anniversary of the date the information was
2 provided and may not be used to refuse registration after that date.
3 Once information about a past due fine or fee is provided under
4 Subsection (b), subsequent information about other fines or fees
5 that are imposed for a criminal offense and that become past due
6 before the second anniversary of the date the initial information
7 was provided may not be used, either before or after the second
8 anniversary of that date, to refuse registration under this section
9 unless the motor vehicle is no longer subject to refusal of
10 registration because of notice received under Subsection (c).

11 (c) A county that has a contract under Subsection (b) shall
12 notify the department regarding a person for whom the county
13 assessor-collector or the department has refused to register a
14 motor vehicle on:

15 (1) the person's payment or other means of discharge,
16 including a waiver, of the past due fine, fee, or tax; or

17 (2) perfection of an appeal of the case contesting
18 payment of the fine, fee, or tax.

19 (i) A municipal court judge or justice of the peace who has
20 jurisdiction over the underlying offense may waive an additional
21 fee imposed under Subsection (f) if the judge or justice makes a
22 finding that the defendant is economically unable to pay the fee or
23 that good cause exists for the waiver.

24 (j) If a county assessor-collector is notified that the
25 court having jurisdiction over the underlying offense has waived
26 the past due fine or fee due to the defendant's indigency, the
27 county may not impose an additional fee on the defendant under

1 Subsection (f).

2 SECTION 27. Section 502.010(f), Transportation Code, as
3 amended by Chapters 1094 (S.B. 1386) and 1296 (H.B. 2357), Acts of
4 the 82nd Legislature, Regular Session, 2011, is reenacted and
5 amended to read as follows:

6 (f) Except as otherwise provided by this section, a [A]
7 county that has a contract under Subsection (b) may impose an
8 additional fee of \$20 to:

9 (1) a person who fails to pay a fine, fee, or tax to the
10 county by the date on which the fine, fee, or tax is due; or

11 (2) a person who fails to appear in connection with a
12 complaint, citation, information, or indictment in a court in which
13 a criminal proceeding is pending against the owner. [The
14 ~~additional fee may be used only to reimburse the department or the~~
15 ~~county for its expenses for providing services under the contract.~~]

16 SECTION 28. Section 706.005, Transportation Code, is
17 amended to read as follows:

18 Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) A
19 political subdivision shall immediately notify the department that
20 there is no cause to continue to deny renewal of a person's driver's
21 license based on the person's previous failure to appear or failure
22 to pay or satisfy a judgment ordering the payment of a fine and cost
23 in the manner ordered by the court in a matter involving an offense
24 described by Section 706.002(a), on payment of a fee as provided by
25 Section 706.006 and:

26 (1) the perfection of an appeal of the case for which
27 the warrant of arrest was issued or judgment arose;

1 (2) the dismissal of the charge for which the warrant
2 of arrest was issued or judgment arose, other than a dismissal with
3 prejudice by motion of the appropriate prosecuting attorney for
4 lack of evidence;

5 (3) the posting of bond or the giving of other security
6 to reinstate the charge for which the warrant was issued;

7 (4) the payment or discharge of the fine and cost owed
8 on an outstanding judgment of the court; or

9 (5) other suitable arrangement to pay the fine and
10 cost within the court's discretion.

11 (b) The department may not continue to deny the renewal of
12 the person's driver's license under this chapter after the
13 department receives notice:

14 (1) under Subsection (a);

15 (2) that the person was acquitted of the charge on
16 which the person failed to appear;

17 (3) that the charge on which the person failed to
18 appear was dismissed with prejudice by motion of the appropriate
19 prosecuting attorney for lack of evidence; or

20 (4) [~~3~~] from the political subdivision that the
21 failure to appear report or court order to pay a fine or cost
22 relating to the person:

23 (A) was sent to the department in error; or

24 (B) has been destroyed in accordance with the
25 political subdivision's records retention policy.

26 SECTION 29. Section 706.006, Transportation Code, is
27 amended by amending Subsections (a) and (b) and adding Subsections

1 (a-1) and (d) to read as follows:

2 (a) Except as provided by Subsection (d), a [A] person who
3 fails to appear for a complaint or citation for an offense described
4 by Section 706.002(a) shall be required to pay an administrative
5 fee of \$30 for each complaint or citation reported to the department
6 under this chapter, unless:

7 (1) the person is acquitted of the charges for which
8 the person failed to appear;

9 (2) the charges on which the person failed to appear
10 were dismissed with prejudice by motion of the appropriate
11 prosecuting attorney for lack of evidence;

12 (3) the failure to appear report was sent to the
13 department in error; or

14 (4) the case regarding the complaint or citation is
15 closed and the failure to appear report has been destroyed in
16 accordance with the applicable political subdivision's records
17 retention policy.

18 (a-1) A [The] person who is required to pay a fee under
19 Subsection (a) shall pay the fee when:

20 (1) the court enters judgment on the underlying
21 offense reported to the department;

22 (2) the underlying offense is dismissed, other than a
23 dismissal described by Subsection (a)(2); or

24 (3) bond or other security is posted to reinstate the
25 charge for which the warrant was issued.

26 (b) Except as provided by Subsection (d), a [A] person who
27 fails to pay or satisfy a judgment ordering the payment of a fine

1 and cost in the manner the court orders shall be required to pay an
2 administrative fee of \$30.

3 (d) If the court having jurisdiction over the underlying
4 offense makes a finding that the person is indigent, the person may
5 not be required to pay an administrative fee under this section.
6 For purposes of this subsection, a person is presumed to be indigent
7 if the person:

8 (1) is required to attend school full time under
9 Section 25.085, Education Code;

10 (2) is a member of a household with a total annual
11 income that is below 125 percent of the applicable income level
12 established by the federal poverty guidelines; or

13 (3) receives assistance from:

14 (A) the financial assistance program established
15 under Chapter 31, Human Resources Code;

16 (B) the medical assistance program under Chapter
17 32, Human Resources Code;

18 (C) the supplemental nutrition assistance
19 program established under Chapter 33, Human Resources Code;

20 (D) the federal special supplemental nutrition
21 program for women, infants, and children authorized by 42 U.S.C.
22 Section 1786; or

23 (E) the child health plan program under Chapter
24 62, Health and Safety Code.

25 SECTION 30. (a) A commission is created to study and
26 review all penal laws of this state other than criminal offenses:

27 (1) under the Penal Code;

- 1 (2) under Chapter 481, Health and Safety Code; or
2 (3) related to the operation of a motor vehicle.

3 (b) The commission shall:

4 (1) evaluate all laws described by Subsection (a) of
5 this section;

6 (2) make recommendations to the legislature regarding
7 the repeal or amendment of laws that are identified as being
8 unnecessary, unclear, duplicative, overly broad, or otherwise
9 insufficient to serve the intended purpose of the law, including
10 the laws identified by the commission created by Section 29,
11 Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
12 Session, 2015, as requiring additional review; and

13 (3) evaluate the recommendations made by the
14 commission created by Section 29, Chapter 1251 (H.B. 1396), Acts of
15 the 84th Legislature, Regular Session, 2015.

16 (c) The commission is composed of nine members appointed as
17 follows:

18 (1) two members appointed by the governor;

19 (2) two members appointed by the lieutenant governor;

20 (3) two members appointed by the speaker of the house
21 of representatives;

22 (4) two members appointed by the chief justice of the
23 Supreme Court of Texas; and

24 (5) one member appointed by the presiding judge of the
25 Texas Court of Criminal Appeals.

26 (d) The officials making appointments to the commission
27 under Subsection (c) of this section shall ensure that the

1 membership of the commission includes representatives of all areas
2 of the criminal justice system, including prosecutors, defense
3 attorneys, judges, legal scholars, and relevant business
4 interests.

5 (e) The governor shall designate one member of the
6 commission to serve as the presiding officer of the commission.

7 (f) A member of the commission is not entitled to
8 compensation or reimbursement of expenses.

9 (g) The commission shall meet at the call of the presiding
10 officer.

11 (h) Not later than November 1, 2018, the commission shall
12 report the commission's findings and recommendations to the
13 governor, the lieutenant governor, the speaker of the house of
14 representatives, the Supreme Court of Texas, the Texas Court of
15 Criminal Appeals, and the standing committees of the house of
16 representatives and the senate with primary jurisdiction over
17 criminal justice. The commission shall include in its
18 recommendations any specific statutes that the commission
19 recommends repealing or amending.

20 (i) Not later than the 60th day after the effective date of
21 this Act, the governor, the lieutenant governor, the speaker of the
22 house of representatives, the chief justice of the Supreme Court of
23 Texas, and the presiding judge of the Texas Court of Criminal
24 Appeals shall appoint the members of the commission created under
25 this section.

26 (j) The commission is abolished and this section expires
27 December 31, 2018.

1 SECTION 31. Article 45.0492(e), Code of Criminal Procedure,
2 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
3 Regular Session, 2011, is repealed.

4 SECTION 32. The changes in law made by this Act to Articles
5 14.06 and 27.14, Code of Criminal Procedure, and Section 502.010
6 and Chapter 706, Transportation Code, apply only to an offense
7 committed on or after the effective date of this Act. An offense
8 committed before the effective date of this Act is governed by the
9 law in effect on the date the offense was committed, and the former
10 law is continued in effect for that purpose. For purposes of this
11 section, an offense was committed before the effective date of this
12 Act if any element of the offense occurred before that date.

13 SECTION 33. The changes in law made by this Act to Articles
14 42.15, 43.09, 43.091, 45.014, 45.041, 45.046, 45.049, and 45.0491,
15 Code of Criminal Procedure, and Articles 45.0492, Code of Criminal
16 Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd
17 Legislature, Regular Session, 2011, and 45.0492, Code of Criminal
18 Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd
19 Legislature, Regular Session, 2011, apply to a sentencing
20 proceeding that commences before, on, or after the effective date
21 of this Act.

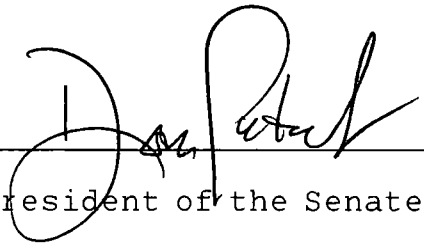
22 SECTION 34. The change in law made by this Act to Articles
23 43.05 and 45.045, Code of Criminal Procedure, applies only to a
24 capias pro fine issued on or after the effective date of this Act. A
25 capias pro fine issued before the effective date of this Act is
26 governed by the law in effect on the date the capias pro fine was
27 issued, and the former law is continued in effect for that purpose.

1 SECTION 35. The changes in law made by this Act to Articles
2 45.016, 45.051, and 45.0511, Code of Criminal Procedure, apply only
3 to a bond executed on or after the effective date of this Act. A
4 bond executed before the effective date of this Act is governed by
5 the law in effect when the bond was executed, and the former law is
6 continued in effect for that purpose.

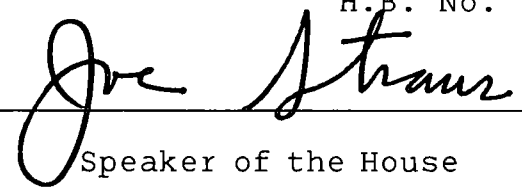
7 SECTION 36. The change in law made by this Act to Article
8 45.048, Code of Criminal Procedure, applies to a defendant who is
9 placed in jail on or after the effective date of this Act for
10 failure to pay the fine and costs imposed on conviction of an
11 offense, regardless of whether the offense for which the defendant
12 was convicted was committed before, on, or after the effective date
13 of this Act.

14 SECTION 37. The change in law made by this Act in amending
15 Article 102.0071, Code of Criminal Procedure, and Section 32.21,
16 Penal Code, applies only to an offense committed on or after the
17 effective date of this Act. An offense committed before the
18 effective date of this Act is governed by the law in effect when the
19 offense was committed, and the former law is continued in effect for
20 that purpose. For purposes of this section, an offense was
21 committed before the effective date of this Act if any element of
22 the offense occurred before that date.

23 SECTION 38. This Act takes effect September 1, 2017.

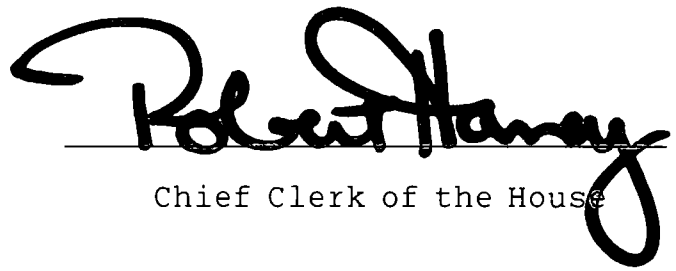


President of the Senate

H.B. No. 351


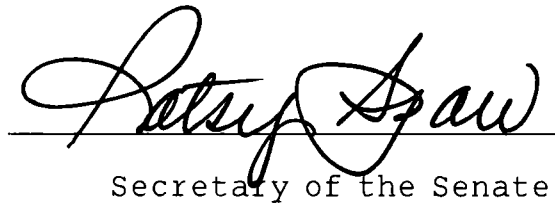
Speaker of the House

I certify that H.B. No. 351 was passed by the House on March 23, 2017, by the following vote: Yeas 134, Nays 8, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 351 on May 26, 2017, by the following vote: Yeas 132, Nays 11, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 351 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 29, Nays 2.



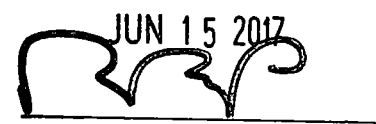
Secretary of the Senate

APPROVED: 6-12-2017
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3 PM O'CLOCK

JUN 15 2017


Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.), **As Passed 2nd House**

The bill would have a negative, but indeterminate, fiscal impact to the state due to anticipated revenue decreases resulting from an unknown number of defendants that would be determined to be indigent or unable to pay receiving a waiver or discharge from fines, fees, and court costs.

The bill would make several amendments the Code of Criminal Procedure and Transportation Code. The bill would require standard language in citations, complaints, and other notices regarding alternatives to payment to satisfy fines and court costs assessed against a defendant who is unable to pay. The bill would limit a court to the use of personal bonds for a defendant charged with certain misdemeanors, and a court would be prohibited from assessing a fee associated with that bond.

The bill would require a court to inquire whether a defendant has sufficient resources to pay all or part of assessed fines during or immediately after sentencing. If a judge determines that the defendant does not have the ability to pay all or part of the fines or costs, then the judge would determine whether the defendant should pay the fine or costs in an installment plan, satisfy the fine or costs through community service, waive the costs in full or in part, or any combination of these methods. The bill would limit the authority of a justice or judge to issue an arrest warrant for failure to appear only if the defendant misses the initial court setting unless a judge takes certain actions.

The bill would authorize the release of certain defendants that successfully complete a term of community supervision or a drug court program. The bill would add defendants ordered to participate in a pretrial intervention program to the list of defendants addressed by the bill.

The bill would require a court, before issuing a *capias pro fine* for a defendant for failure to pay, to hold a hearing. Only if the defendant failed to appear or if the defendant appears and the court makes a finding that the defendant's failure to pay has been willful would the court be allowed to issue a *capias pro fine*. If the defendant voluntarily appears to resolve the matter before the *capias pro fine* is executed, the court would be required to recall the *capias pro fine*.

The bill would increase the amount of credit provided to defendants who satisfy payment of their fine and court costs through confinement in jail or community service. The credit for confinement in jail would increase from \$50 per day to \$100 per day, and the credit for community service

would increase from \$50 to \$100 for every eight hours of service performed. The bill would also expand the types of work authorized under community service to include work for a religious organization, a neighborhood association or group, or an educational institution. Defendants would also be able to attend a job skills training program or GED preparatory class to complete their community service requirements.

The bill would require a court to notify a defendant before issuing an arrest warrant for the defendant's failure to appear and would specify the contents and form of the notification. The bill would allow a court to waive the \$20 Scofflaw fee and the \$30 Omnibase fee if the court determines that a defendant is unable to pay or if good cause exists to waive the fees.

The bill would require the establishment of a commission created to study and review all penal laws other than criminal offenses and that would make recommendations to the Legislature regarding the repeal or amendment of laws identified by the commission as being insufficient to serve the intended purpose of the law. The bill would define the members of the commission and identifies offices that may make appointments to its membership. The bill would require the commission to report on these findings no later than November 1, 2018. The commission would be abolished on December 31, 2018.

The bill would amend the Penal Code as it relates to the punishment for the offense of forgery and to a fee imposed on certain defendants who commit the offense. Under the provisions of the bill, forgery would be modified to include a value ladder. The punishment for certain kinds of forgery conducted to obtain or attempt to obtain a property or service would range from a misdemeanor to a felony with the punishment level increasing in severity based on the pecuniary value of the property or service obtained through forgery.

The bill would take effect September 1, 2017.

According to the Comptroller of Public Accounts, the extent to which courts would waive, reduce, or postpone payment of fines and costs on determinations that defendants lack sufficient resources or income to pay is unknown; therefore, it is estimated that there would be a negative, but indeterminate, revenue loss that would occur as a result of the waiver or discharge of fines, fees, and court costs by justices or judges cannot be determined.

This estimate assumes duties and responsibilities associated with implementing the remaining provisions of the bill that pertain to these agencies could be accomplished using existing resources. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Local Government Impact

Local governments may see an indeterminate decrease in fine or court cost collections due to judicial waiver of costs and fines. The overall impact of the bill will vary by county and municipality based upon the volume of cases.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, KJo, MW, GDz, JPo, LCO, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 21, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.), **Committee Report 2nd House, Substituted**

The bill would have a negative, but indeterminate, fiscal impact to the state due to anticipated revenue decreases resulting from an unknown number of defendants that would be determined to be indigent or unable to pay receiving a waiver or discharge from fines, fees, and court costs.

The bill would make several amendments the Code of Criminal Procedure and Transportation Code. The bill would require standard language in citations, complaints, and other notices regarding alternatives to payment to satisfy fines and court costs assessed against a defendant who is unable to pay. The bill would limit a court to the use of personal bonds for a defendant charged with certain misdemeanors, and a court would be prohibited from assessing a fee associated with that bond.

The bill would require a court to inquire whether a defendant has sufficient resources to pay all or part of assessed fines and immediately after sentencing. If a judge determines that the defendant does not have the ability to pay all or part of the fines or costs, then the judge would determine whether the defendant should pay the fine or costs in an installment plan, satisfy the fine or costs through community service, waive the costs in full or in part, or any combination of these methods.

The bill would require a court, before issuing a *capias pro fine* for a defendant for failure to pay, to hold a hearing. Only if the defendant failed to appear or if the defendant appears and the court makes a finding that the defendant's failure to pay has been willful would the court be allowed to issue a *capias pro fine*. If the defendant voluntarily appears to resolve the matter before the *capias pro fine* is executed, the court would be required to recall the *capias pro fine*.

The bill would increase the amount of credit provided to defendants who satisfy payment of their fine and court costs through confinement in jail or community service. The credit for confinement in jail would increase from \$50 per day to \$100 per day, and the credit for community service would increase from \$50 to \$100 for every eight hours of service performed. The bill would also expand the types of work authorized under community service to include work for a religious organization, a neighborhood association or group, or an educational institution. Defendants would also be able to attend a job skills training program or GED preparatory class to complete their community service requirements.

The bill would require a court to notify a defendant before issuing an arrest warrant for the defendant's failure to appear and would specify the contents and form of the notification. The bill would allow a court to waive the \$20 Scofflaw fee and the \$30 Omnibase fee if the court determines that a defendant is unable to pay or if good cause exists to waive the fees.

The bill would take effect September 1, 2017.

According to the Comptroller of Public Accounts, the extent to which courts would waive, reduce, or postpone payment of fines and costs on determinations that defendants lack sufficient resources or income to pay is unknown; therefore, it is estimated that there would be a negative, but indeterminate, revenue loss that would occur as a result of the waiver or discharge of fines, fees, and court costs by justices or judges cannot be determined.

This estimate assumes duties and responsibilities associated with implementing the remaining provisions of the bill that pertain to these agencies could be accomplished using existing resources.

Local Government Impact

Local governments may see an indeterminate decrease in fine or court cost collections due to judicial waiver of costs and fines. The overall impact of the bill will vary by county and municipality based upon the volume of cases.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, KJo, MW, GDz, LCO, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 20, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the discharge or waiver of fines and costs imposed on indigent defendants; authorizing a fee.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a judge to order, at sentencing or any time thereafter, a defendant that is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service and includes additional requirements that includes allowing a judge to impose a reasonable administrative fee to cover the costs of administering and supervising a defendant's community supervision and automatic reinstatement of the unpaid amount if the defendant does not complete the community service by the date specified. The bill would also allow a judge to waive payment of a fine or costs imposed on a defendant or child who is indigent and discharging the fine or costs under any alternative method would impose an undue hardship on the defendant or child.

Based on information provided by the Office of Court Administration, no significant fiscal implication to the state is anticipated and revenues from the administrative fee would not be significant based on historical analysis of payments made by indigent individuals.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts

LBB Staff: UP, KJo, MW, GDz, LCO, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 5, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the discharge or waiver of fines and costs imposed on indigent defendants.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a judge to order, at sentencing or any time thereafter, a defendant that is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service. The bill would also allow a judge to waive payment of a fine or costs imposed on a defendant or child who is indigent and discharging the fine or costs under any alternative method would impose an undue hardship on the defendant or child.

Based on information provided by the Office of Court Administration, no significant fiscal implication to the state is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: UP, KJo, MW, GDz, LCO, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the punishment for the offense of forgery and to a fee imposed on certain defendants who commit the offense. Under the provisions of the bill, forgery would be modified to include a value ladder. The punishment for certain kinds of forgery conducted to obtain or attempted to obtain a property or service would range from a misdemeanor to a felony with the punishment level increasing in severity based on the pecuniary value of the property or service obtained through forgery.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, JPo, RFL