

2017 Bill Text TX S.B. 1913

Enacted, June 15, 2017

Reporter

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Notice

Added: Text highlighted in green

Deleted: Red-text with a strikethrough

THE STATE OF TEXAS BILL TEXT > TEXAS 85TH LEGISLATURE > SENATE BILL 1913

Synopsis

AN ACT

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.

Text

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

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

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

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

(2) ~~,~~ the name and address of the person charged ;

(3) ~~,~~ the offense charged ;

(4) INFORMATION REGARDING THE ALTERNATIVES TO THE FULL PAYMENT OF ANY FINE OR COSTS ASSESSED AGAINST THE PERSON, IF THE PERSON IS CONVICTED OF THE OFFENSE AND IS UNABLE TO PAY THAT AMOUNT; ~~,~~ and

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

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

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

(a) EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, IF ~~-if-~~ a court releases an accused on personal bond on the recommendation of a personal bond office, the court shall assess a personal

bond fee of \$ 20 or three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown. **A COURT THAT REQUIRES A DEFENDANT TO GIVE A PERSONAL BOND UNDER ARTICLE 45.016 MAY NOT ASSESS A PERSONAL BOND FEE UNDER THIS SUBSECTION.**

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

- (b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) ~~of this article~~, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by **REGULAR** ~~certified~~ mail ~~, return receipt requested,~~ of the amount of any fine **OR COSTS** assessed in the case **, INFORMATION REGARDING THE ALTERNATIVES TO THE FULL PAYMENT OF ANY FINE OR COSTS ASSESSED AGAINST THE DEFENDANT, IF THE DEFENDANT IS UNABLE TO PAY THAT AMOUNT,** and, if requested by the defendant, the amount of an appeal bond that the court will approve. **EXCEPT AS OTHERWISE PROVIDED BY THIS CODE, THE** ~~The~~ defendant shall pay any fine **OR COSTS** assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

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

(A-1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, DURING OR IMMEDIATELY AFTER IMPOSING A SENTENCE IN A CASE IN WHICH THE DEFENDANT ENTERED A PLEA IN OPEN COURT AS PROVIDED BY ARTICLE 27.13, 27.14(A), OR 27.16(A), A COURT SHALL INQUIRE WHETHER THE DEFENDANT HAS SUFFICIENT RESOURCES OR INCOME TO IMMEDIATELY PAY ALL OR PART OF THE FINE AND COSTS. IF THE COURT DETERMINES THAT THE DEFENDANT DOES NOT HAVE SUFFICIENT RESOURCES OR INCOME TO IMMEDIATELY PAY ALL OR PART OF THE FINE AND COSTS, THE COURT SHALL DETERMINE WHETHER THE FINE AND COSTS SHOULD BE:

- (1) SUBJECT TO SUBSECTION (C), REQUIRED TO BE PAID AT SOME LATER DATE OR IN A SPECIFIED PORTION AT DESIGNATED INTERVALS;**
- (2) DISCHARGED BY PERFORMING COMMUNITY SERVICE UNDER, AS APPLICABLE, ARTICLE 43.09(F), ARTICLE 45.049, ARTICLE 45.0492, AS ADDED BY CHAPTER 227 (H.B. 350), ACTS OF THE 82ND LEGISLATURE, REGULAR SESSION, 2011, OR ARTICLE 45.0492, AS ADDED BY CHAPTER 777 (H.B. 1964), ACTS OF THE 82ND LEGISLATURE, REGULAR SESSION, 2011;**
- (3) WAIVED IN FULL OR IN PART UNDER ARTICLE 43.091 OR 45.0491; OR**
- (4) SATISFIED THROUGH ANY COMBINATION OF METHODS UNDER SUBDIVISIONS (1)-(3).**

(b) Subject to Subsections (c) and (d) **AND ARTICLE 43.091**, when imposing a fine and costs, a court may direct a defendant:

- (1) to pay the entire fine and costs when sentence is pronounced;
- (2) to pay the entire fine and costs at some later date; or
- (3) to pay a specified portion of the fine and costs at designated intervals.

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

(A-1) A COURT MAY NOT ISSUE A CAPIAS PRO FINE FOR THE DEFENDANT'S FAILURE TO SATISFY THE JUDGMENT ACCORDING TO ITS TERMS UNLESS THE COURT HOLDS A HEARING ON THE DEFENDANT'S ABILITY TO SATISFY THE JUDGMENT AND:

- (1) THE DEFENDANT FAILS TO APPEAR AT THE HEARING; OR
- (2) BASED ON EVIDENCE PRESENTED AT THE HEARING, THE COURT DETERMINES THAT THE CAPIAS PRO FINE SHOULD BE ISSUED.

(A-2) THE COURT SHALL RECALL A CAPIAS PRO FINE IF, BEFORE THE CAPIAS PRO FINE IS EXECUTED:

- (1) THE DEFENDANT VOLUNTARILY APPEARS TO RESOLVE THE AMOUNT OWED; AND
- (2) THE AMOUNT OWED IS RESOLVED IN ANY MANNER AUTHORIZED BY THIS CODE.

SECTION 6. Article 43.09, Code of Criminal Procedure, is amended by amending Subsections (a), (g), (h), (j), and (l) and adding Subsection (h-1) to read as follows:

- (a) When a defendant is convicted of a misdemeanor and THE DEFENDANT'S ~~his~~ punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, if THE DEFENDANT ~~he~~ is unable to pay the fine and costs adjudged against THE DEFENDANT ~~him~~, THE DEFENDANT ~~he~~ may for such time as will satisfy the judgment be put to work in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, as provided in ARTICLE 43.10 ~~the succeeding article~~; or if there IS ~~be~~ no such county jail industries program, workhouse, farm, or improvements and maintenance projects, THE DEFENDANT ~~he~~ shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against THE DEFENDANT ~~him~~; rating such confinement at \$ 100 ~~\$ 50~~ for each day and rating such labor at \$ 100 ~~\$ 50~~ for each day; provided, however, that the defendant may pay the pecuniary fine assessed against THE DEFENDANT ~~him~~ at any time while THE DEFENDANT ~~he~~ is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while THE DEFENDANT ~~he~~ is serving THE DEFENDANT'S ~~his~~ jail sentence, and in such instances THE DEFENDANT IS ~~he shall be~~ entitled to the credit ~~he has~~ earned under this subsection during the time that THE DEFENDANT ~~he~~ has served and THE DEFENDANT ~~he~~ shall only be required to pay THE ~~his~~ balance of the pecuniary fine assessed against THE DEFENDANT ~~him~~. A defendant who performs labor under this article during a day in which THE DEFENDANT ~~he~~ is confined is entitled to both the credit for confinement and the credit for labor provided by this article.
- (g) In THE COURT'S ~~its~~ order requiring a defendant to PERFORM ~~participate in~~ community service ~~work~~ under Subsection (f) ~~of this article~~, the court must specify:
- (1) the number of hours OF COMMUNITY SERVICE the defendant is required to PERFORM ~~work~~; ~~and~~
 - (2) whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program; AND
 - (3) THE DATE BY WHICH THE DEFENDANT MUST SUBMIT TO THE COURT DOCUMENTATION VERIFYING THE DEFENDANT'S COMPLETION OF THE COMMUNITY SERVICE.
- (h) The court may order the defendant to perform community service ~~work~~ under Subsection (f) :
- (1) BY ATTENDING A WORK AND JOB SKILLS TRAINING PROGRAM, PREPARATORY CLASS FOR THE HIGH SCHOOL EQUIVALENCY EXAMINATION ADMINISTERED UNDER SECTION 7.111, EDUCATION CODE, OR SIMILAR ACTIVITY; OR

(2) ~~of this article only~~ for :

(A) a governmental entity ;

(B) ~~or~~ a nonprofit organization OR ANOTHER ORGANIZATION that provides services to the general public that enhance social welfare and the general well-being of the community , AS DETERMINED BY THE COURT; OR

(C) AN EDUCATIONAL INSTITUTION .

(H-1) AN ~~A governmental~~ entity ~~or nonprofit organization~~ that accepts a defendant under Subsection (f) ~~of this article~~ to perform community service must agree to supervise , EITHER ON-SITE OR REMOTELY, the defendant in the performance of the defendant's COMMUNITY SERVICE ~~work~~ and report on the defendant's COMMUNITY SERVICE ~~work~~ to the district probation department or court-related services office.

(j) A court may not order a defendant to perform more than 16 hours per week of community service under Subsection (f) ~~of this article~~ unless the court determines that requiring the defendant to PERFORM ~~work~~ additional hours does not IMPOSE AN UNDUE ~~work~~ a hardship on the defendant or the defendant's dependents.

(l) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, an employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county OR AN ENTITY THAT ACCEPTS A DEFENDANT UNDER THIS ARTICLE TO PERFORM COMMUNITY SERVICE is not liable for damages arising from an act or failure to act in connection with manual labor performed by an inmate OR COMMUNITY SERVICE PERFORMED BY A DEFENDANT UNDER ~~pursuant to~~ this article if the act or failure to act:

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

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

SECTION 7. Article 43.091, Code of Criminal Procedure, is amended to read as follows:

Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR CERTAIN ~~INDIGENT~~ DEFENDANTS AND FOR CHILDREN. A court may waive payment of ALL OR PART OF a fine or COSTS ~~cost~~ imposed on a defendant ~~who defaults in payment~~ if the court determines that:

(1) the defendant is indigent OR DOES NOT HAVE SUFFICIENT RESOURCES OR INCOME TO PAY ALL OR PART OF THE FINE OR COSTS or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

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

SECTION 8. Article 45.014, Code of Criminal Procedure, is amended by adding Subsections (e), (f), and (g) to read as follows:

(E) A JUSTICE OR JUDGE MAY NOT ISSUE AN ARREST WARRANT FOR THE DEFENDANT'S FAILURE TO APPEAR AT THE INITIAL COURT SETTING, INCLUDING FAILURE TO APPEAR AS REQUIRED BY A CITATION ISSUED UNDER ARTICLE 14.06(B), UNLESS:

(1) THE JUSTICE OR JUDGE PROVIDES BY TELEPHONE OR REGULAR MAIL TO THE DEFENDANT NOTICE THAT INCLUDES:

(A) A DATE AND TIME, OCCURRING WITHIN THE 30-DAY PERIOD FOLLOWING THE DATE THAT NOTICE IS PROVIDED, WHEN THE DEFENDANT MUST APPEAR BEFORE THE JUSTICE OR JUDGE;

(B) THE NAME AND ADDRESS OF THE COURT WITH JURISDICTION IN THE CASE;

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- (C) INFORMATION REGARDING ALTERNATIVES TO THE FULL PAYMENT OF ANY FINE OR COSTS OWED BY THE DEFENDANT, IF THE DEFENDANT IS UNABLE TO PAY THAT AMOUNT; AND
- (D) AN EXPLANATION OF THE CONSEQUENCES IF THE DEFENDANT FAILS TO APPEAR BEFORE THE JUSTICE OR JUDGE AS REQUIRED BY THIS ARTICLE; AND
- (2) THE DEFENDANT FAILS TO APPEAR BEFORE THE JUSTICE OR JUDGE AS REQUIRED BY THIS ARTICLE.
- (F) A DEFENDANT WHO RECEIVES NOTICE UNDER SUBSECTION (E) MAY REQUEST AN ALTERNATIVE DATE OR TIME TO APPEAR BEFORE THE JUSTICE OR JUDGE IF THE DEFENDANT IS UNABLE TO APPEAR ON THE DATE AND TIME INCLUDED IN THE NOTICE.
- (G) A JUSTICE OR JUDGE SHALL RECALL AN ARREST WARRANT FOR THE DEFENDANT'S FAILURE TO APPEAR IF THE DEFENDANT VOLUNTARILY APPEARS AND MAKES A GOOD FAITH EFFORT TO RESOLVE THE ARREST WARRANT BEFORE THE WARRANT IS EXECUTED.

SECTION 9. Article 45.016, Code of Criminal Procedure, is amended to read as follows:

Art. 45.016. **PERSONAL BOND; BAIL BOND .** (A) The justice or judge may require the defendant to give **A PERSONAL BOND** ~~-bail-~~ to secure the defendant's appearance in accordance with this code.

(B) **THE JUSTICE OR JUDGE MAY NOT, EITHER INSTEAD OF OR IN ADDITION TO THE PERSONAL BOND, REQUIRE A DEFENDANT TO GIVE A BAIL BOND UNLESS:**

(1) **THE DEFENDANT FAILS TO APPEAR IN ACCORDANCE WITH THIS CODE WITH RESPECT TO THE APPLICABLE OFFENSE; AND**

(2) **THE JUSTICE OR JUDGE DETERMINES THAT:**

(A) **THE DEFENDANT HAS SUFFICIENT RESOURCES OR INCOME TO GIVE A BAIL BOND; AND**

(B) **A BAIL BOND IS NECESSARY TO SECURE THE DEFENDANT'S APPEARANCE IN ACCORDANCE WITH THIS CODE.**

(C) **IF BEFORE THE EXPIRATION OF A 48-HOUR PERIOD FOLLOWING THE ISSUANCE OF THE APPLICABLE ORDER A DEFENDANT DESCRIBED BY SUBSECTIONS (B)(1) AND (2) DOES NOT GIVE A REQUIRED BAIL BOND, THE JUSTICE OR JUDGE:**

(1) **SHALL RECONSIDER THE REQUIREMENT FOR THE DEFENDANT TO GIVE THE BAIL BOND AND PRESUME THAT THE DEFENDANT DOES NOT HAVE SUFFICIENT RESOURCES OR INCOME TO GIVE THE BOND; AND**

(2) **MAY REQUIRE THE DEFENDANT TO GIVE A PERSONAL BOND.**

(D) **If the defendant REFUSES TO GIVE A PERSONAL BOND OR, EXCEPT AS PROVIDED BY SUBSECTION (C), REFUSES OR OTHERWISE fails to give A bail BOND , the defendant may be held in custody.**

SECTION 10. Article 45.041, Code of Criminal Procedure, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(A-1) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, DURING OR IMMEDIATELY AFTER IMPOSING A SENTENCE IN A CASE IN WHICH THE DEFENDANT ENTERED A PLEA IN OPEN COURT AS PROVIDED BY ARTICLE 27.14(A) OR 27.16(A), THE JUSTICE OR JUDGE SHALL INQUIRE WHETHER THE DEFENDANT HAS SUFFICIENT RESOURCES OR INCOME TO IMMEDIATELY PAY ALL OR PART OF THE FINE AND COSTS. IF THE JUSTICE OR JUDGE DETERMINES THAT THE DEFENDANT DOES NOT HAVE SUFFICIENT RESOURCES OR INCOME**

TO IMMEDIATELY PAY ALL OR PART OF THE FINE AND COSTS, THE JUSTICE OR JUDGE SHALL DETERMINE WHETHER THE FINE AND COSTS SHOULD BE:

- (1) SUBJECT TO SUBSECTION (B-2), REQUIRED TO BE PAID AT SOME LATER DATE OR IN A SPECIFIED PORTION AT DESIGNATED INTERVALS;
- (2) DISCHARGED BY PERFORMING COMMUNITY SERVICE UNDER, AS APPLICABLE, ARTICLE 45.049, ARTICLE 45.0492, AS ADDED BY CHAPTER 227 (H.B. 350), ACTS OF THE 82ND LEGISLATURE, REGULAR SESSION, 2011, OR ARTICLE 45.0492, AS ADDED BY CHAPTER 777 (H.B. 1964), ACTS OF THE 82ND LEGISLATURE, REGULAR SESSION, 2011;
- (3) WAIVED IN FULL OR IN PART UNDER ARTICLE 45.0491; OR
- (4) SATISFIED THROUGH ANY COMBINATION OF METHODS UNDER SUBDIVISIONS (1)-(3).

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

- (1) to pay:
 - (A) the entire fine and costs when sentence is pronounced;
 - (B) the entire fine and costs at some later date; or
 - (C) a specified portion of the fine and costs at designated intervals;
- (2) if applicable, to make restitution to any victim of the offense; and
- (3) to satisfy any other sanction authorized by law.

SECTION 11. Article 45.0425(a), Code of Criminal Procedure, is amended to read as follows:

- (a) If the court from whose judgment and sentence the appeal is taken is in session, the court must approve the bail. The amount of AN APPEAL ~~-a bail-~~ bond may not be less than two times the amount of the fine and costs adjudged against the defendant, payable to the State of Texas. The APPEAL BOND ~~-bail-~~ may not in any case be for AN AMOUNT ~~-a sum-~~ less than \$ 50. If the appeal bond otherwise meets the requirements of this code, the court without requiring a court appearance by the defendant shall approve the appeal bond in the amount the court under Article 27.14(b) notified the defendant would be approved.

SECTION 12. Article 45.045, Code of Criminal Procedure, is amended by adding Subsections (a-2) and (a-3) to read as follows:

(A-2) THE COURT MAY NOT ISSUE A CAPIAS PRO FINE FOR THE DEFENDANT'S FAILURE TO SATISFY THE JUDGMENT ACCORDING TO ITS TERMS UNLESS THE COURT HOLDS A HEARING ON THE DEFENDANT'S ABILITY TO SATISFY THE JUDGMENT AND:

- (1) THE DEFENDANT FAILS TO APPEAR AT THE HEARING; OR
- (2) BASED ON EVIDENCE PRESENTED AT THE HEARING, THE COURT DETERMINES THAT THE CAPIAS PRO FINE SHOULD BE ISSUED.

(A-3) THE COURT SHALL RECALL A CAPIAS PRO FINE IF, BEFORE THE CAPIAS PRO FINE IS EXECUTED:

- (1) THE DEFENDANT VOLUNTARILY APPEARS TO RESOLVE THE AMOUNT OWED; AND
- (2) THE AMOUNT OWED IS RESOLVED IN ANY MANNER AUTHORIZED BY THIS CHAPTER.

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

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

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- (1) the defendant is not indigent and has failed to make a good faith effort to discharge the fine **OR** ~~and~~ costs; or
- (2) the defendant is indigent and:
 - (A) has failed to make a good faith effort to discharge the **FINE OR** ~~finest and~~ costs under Article 45.049; and
 - (B) could have discharged the **FINE OR** ~~finest and~~ costs under Article 45.049 without experiencing any undue hardship.

SECTION 14. Article 45.048, Code of Criminal Procedure, is amended to read as follows:

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

- (1) is too poor to pay the fine and costs; or
- (2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than **\$ 100** ~~\$ 50~~ for each period ~~of time~~ served, as specified by the convicting court in the judgment in the case.
 - (b) A convicting court may specify a period ~~of time~~ that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the **FINE** ~~finest~~ and costs in the case must remain in jail to satisfy **\$ 100** ~~\$ 50~~ of the fine and costs.

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

- (b) In the justice's or judge's order requiring a defendant to **PERFORM** ~~participate in~~ community service ~~work~~ under this article, the justice or judge must specify :
 - (1) the number of hours **OF COMMUNITY SERVICE** the defendant is required to **PERFORM; AND**
 - (2) **THE DATE BY WHICH THE DEFENDANT MUST SUBMIT TO THE COURT DOCUMENTATION VERIFYING THE DEFENDANT'S COMPLETION OF THE COMMUNITY SERVICE** ~~work~~ .
- (c) The justice or judge may order the defendant to perform community service ~~work~~ under this article :
 - (1) **BY ATTENDING A WORK AND JOB SKILLS TRAINING PROGRAM, A PREPARATORY CLASS FOR THE HIGH SCHOOL EQUIVALENCY EXAMINATION ADMINISTERED UNDER SECTION 7.111, EDUCATION CODE, OR SIMILAR ACTIVITY; OR**
 - (2) ~~only~~ for :
 - (A) a governmental entity ;
 - (B) ~~or~~ a nonprofit organization **OR ANOTHER ORGANIZATION** that provides services to the general public that enhance social welfare and the general well-being of the community , **AS DETERMINED BY THE JUSTICE OR JUDGE; OR**
 - (C) **AN EDUCATIONAL INSTITUTION** .
 - (C-1) **AN** ~~A governmental~~ entity ~~or nonprofit organization~~ that accepts a defendant under this article to perform community service must agree to supervise , **EITHER ON-SITE OR REMOTELY,** the defendant in the performance of the defendant's **COMMUNITY SERVICE** ~~work~~ and report on the defendant's **COMMUNITY SERVICE** ~~work~~ to the justice or judge who ordered the ~~community~~ service.
- (d) A justice or judge may not order a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to **PERFORM** ~~work~~ additional hours does not **IMPOSE AN UNDUE** ~~work-a~~ hardship on the defendant or the defendant's dependents.

- (e) A defendant is considered to have discharged not less than **\$ 100** ~~-\$ 50-~~ of fines or costs for each eight hours of community service performed under this article.
- (f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county **OR AN ENTITY THAT ACCEPTS A DEFENDANT UNDER THIS ARTICLE TO PERFORM COMMUNITY SERVICE** is not liable for damages arising from an act or failure to act in connection with **COMMUNITY SERVICE** ~~manual labor-~~ performed by a defendant under this article if the act or failure to act:
- (1) was performed pursuant to court order; and
 - (2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.
- (g) This subsection applies only to a defendant who is charged with a traffic offense or an offense under Section 106.05, Alcoholic Beverage Code, and is a resident of this state. If under Article 45.051(b)(10), Code of Criminal Procedure, the judge requires the defendant to perform community service as a condition of the deferral, the defendant is entitled to elect whether to perform the required ~~governmental entity or nonprofit organization community-~~ service in:
- (1) the county in which the court is located; or
 - (2) the county in which the defendant resides, but only if the **APPLICABLE** entity ~~-or-organization~~ agrees to:
 - (A) supervise **, EITHER ON-SITE OR REMOTELY,** the defendant in the performance of the defendant's community service ~~-work-~~; and
 - (B) report to the court on the defendant's community service ~~-work-~~.

SECTION 16. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

- Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR **CERTAIN** ~~-INDIGENT~~ DEFENDANTS AND **FOR** CHILDREN. (A) A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of **ALL OR PART OF** a fine or costs imposed on a defendant ~~-who defaults in payment-~~ if the court determines that:
- (1) the defendant is indigent **OR DOES NOT HAVE SUFFICIENT RESOURCES OR INCOME TO PAY ALL OR PART OF THE FINE OR COSTS** or was, at the time the offense was committed, a child as defined by Article 45.058(h); and
 - (2) discharging the fine **OR** ~~-and-~~ costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.
- (B) **A DEFENDANT IS PRESUMED TO BE INDIGENT OR TO NOT HAVE SUFFICIENT RESOURCES OR INCOME TO PAY ALL OR PART OF THE FINE OR COSTS IF THE DEFENDANT:**
- (1) **IS IN THE CONSERVATORSHIP OF THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES, OR WAS IN THE CONSERVATORSHIP OF THAT DEPARTMENT AT THE TIME OF THE OFFENSE; OR**
 - (2) **IS DESIGNATED AS A HOMELESS CHILD OR YOUTH OR AN UNACCOMPANIED YOUTH, AS THOSE TERMS ARE DEFINED BY 42 U.S.C. SECTION 11434A, OR WAS SO DESIGNATED AT THE TIME OF THE OFFENSE.**

SECTION 17. The heading to Article 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

- Art. 45.0492. **COMMUNITY SERVICE** ~~-OR TUTORING-~~ IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS.

SECTION 18. Article 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, is amended by amending Subsections (b), (c), (d), (f), (g), and (h) and adding Subsection (d-1) to read as follows:

- (b) A justice or judge may require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service ~~or attending a tutoring program that is satisfactory to the court~~. A defendant may discharge an obligation to perform community service ~~or attend a tutoring program~~ under this article by paying at any time the fine and costs assessed.
- (c) In the justice's or judge's order requiring a defendant to **PERFORM** ~~participate in~~ community service ~~work or a tutoring program~~ under this article, the justice or judge must specify :
- (1) the number of hours **OF COMMUNITY SERVICE** the defendant is required to **PERFORM; AND**
 - (2) **THE DATE BY WHICH THE DEFENDANT MUST SUBMIT TO THE COURT DOCUMENTATION VERIFYING THE DEFENDANT'S COMPLETION OF THE COMMUNITY SERVICE** ~~work or attend tutoring~~.
- (d) The justice or judge may order the defendant to perform community service ~~work~~ under this article :
- (1) **BY ATTENDING A TUTORING PROGRAM, WORK AND JOB SKILLS TRAINING PROGRAM, PREPARATORY CLASS FOR THE HIGH SCHOOL EQUIVALENCY EXAMINATION ADMINISTERED UNDER SECTION 7.111, EDUCATION CODE, OR SIMILAR ACTIVITY; OR**
 - (2) ~~only~~ for :
 - (A) a governmental entity ;
 - (B) ~~or~~ a nonprofit organization **OR ANOTHER ORGANIZATION** that provides services to the general public that enhance social welfare and the general well-being of the community , **AS DETERMINED BY THE JUSTICE OR JUDGE; OR**
 - (C) **AN EDUCATIONAL INSTITUTION** .
- (D-1) **AN** ~~A governmental~~ entity ~~or nonprofit organization~~ that accepts a defendant under this article to perform community service must agree to supervise **, EITHER ON-SITE OR REMOTELY,** the defendant in the performance of the defendant's **COMMUNITY SERVICE** ~~work~~ and report on the defendant's **COMMUNITY SERVICE** ~~work~~ to the justice or judge who ordered the ~~community~~ service.
- (f) A justice or judge may not order a defendant to perform more than 16 hours of community service per week ~~or attend more than 16 hours of tutoring per week~~ under this article unless the justice or judge determines that requiring **THE DEFENDANT TO PERFORM** additional hours ~~of work or tutoring~~ does not **IMPOSE AN UNDUE** ~~cause a~~ hardship on the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned by Section 71.003, Family Code.
- (g) A defendant is considered to have discharged not less than **\$ 100** ~~\$ 50~~ of fines or costs for each eight hours of community service performed ~~or tutoring program attended~~ under this article.
- (h) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, **OR** officer or employee of a political subdivision other than a county **OR AN ENTITY THAT ACCEPTS A DEFENDANT UNDER THIS ARTICLE TO PERFORM COMMUNITY SERVICE** ~~, nonprofit organization, or tutoring program~~ is not liable for damages arising from an act or failure to act in connection with **COMMUNITY SERVICE** ~~an activity~~ performed by a defendant under this article if the act or failure to act:
- (1) was performed pursuant to court order; and

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

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

- (c) In the justice's or judge's order requiring a defendant to perform community service under this article, the justice or judge shall specify :
- (1) the number of hours of COMMUNITY service the defendant is required to perform , ~~and may not TO EXCEED order more than~~ 200 hours ; AND
 - (2) THE DATE BY WHICH THE DEFENDANT MUST SUBMIT TO THE COURT DOCUMENTATION VERIFYING THE DEFENDANT'S COMPLETION of THE COMMUNITY service.
- (d) The justice or judge may order the defendant to perform community service ~~work~~ under this article :
- (1) BY ATTENDING A WORK AND JOB SKILLS TRAINING PROGRAM, PREPARATORY CLASS FOR THE HIGH SCHOOL EQUIVALENCY EXAMINATION ADMINISTERED UNDER SECTION 7.111, EDUCATION CODE, OR SIMILAR ACTIVITY; OR
 - (2) ~~only~~ for :
 - (A) a governmental entity ;
 - (B) ~~or~~ a nonprofit organization OR ANOTHER ORGANIZATION that provides services to the general public that enhance social welfare and the general well-being of the community , AS DETERMINED BY THE JUSTICE OR JUDGE; OR
 - (C) AN EDUCATIONAL INSTITUTION .
 - (D-1) AN ~~A governmental~~ entity ~~or nonprofit organization~~ that accepts a defendant under this article to perform community service must agree to supervise , EITHER ON-SITE OR REMOTELY, the defendant in the performance of the defendant's COMMUNITY SERVICE ~~work~~ and report on the defendant's COMMUNITY SERVICE ~~work~~ to the justice or judge who ordered the ~~community~~ service.
- (e) A justice or judge may not order a defendant to perform more than 16 hours of community service per week under this article unless the justice or judge determines that requiring THE DEFENDANT TO PERFORM additional hours ~~of work~~ does not IMPOSE AN UNDUE ~~cause a~~ hardship on the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned by Section 71.003, Family Code.
- (f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county OR AN ENTITY THAT ACCEPTS A DEFENDANT UNDER THIS ARTICLE TO PERFORM COMMUNITY SERVICE is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act:
- (1) was performed pursuant to court order; and
 - (2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.
- (H) A DEFENDANT IS CONSIDERED TO HAVE DISCHARGED NOT LESS THAN \$ 100 OF FINES OR COSTS FOR EACH EIGHT HOURS OF COMMUNITY SERVICE PERFORMED UNDER THIS ARTICLE.

SECTION 20. Article 45.051(a), Code of Criminal Procedure, is amended to read as follows:

- (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may defer further proceedings without

entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. In issuing the order of deferral, the judge may impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The special expense fee may be collected at any time before the date on which the period of probation ends. The judge may elect not to impose the special expense fee for good cause shown by the defendant. If the judge orders the collection of a special expense fee, the judge shall require that the amount of the special expense fee be credited toward the payment of the amount of the fine imposed by the judge. An order of deferral under this subsection terminates any liability under a ~~bail bond or an appearance~~ bond given for the charge.

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

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

SECTION 22. Article 103.0031(j), Code of Criminal Procedure, is amended to read as follows:

- (j) A communication to the accused person regarding the amount of payment that is acceptable to the court under the court's standard policy for resolution of a case must include :
- (1) a notice of the person's right to enter a plea or go to trial on any offense charged ; AND
 - (2) A STATEMENT THAT, IF THE PERSON IS UNABLE TO PAY THE FULL AMOUNT OF PAYMENT THAT IS ACCEPTABLE TO THE COURT, THE PERSON SHOULD CONTACT THE COURT REGARDING THE ALTERNATIVES TO FULL PAYMENT THAT ARE AVAILABLE TO RESOLVE THE CASE .

SECTION 23. Section 502.010, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1), (i), and (j) to read as follows:

- (a) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A ~~A~~ county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle:
- (1) owes the county money for a fine, fee, or tax that is past due; or
 - (2) failed to appear in connection with a complaint, citation, information, or indictment in a court in the county in which a criminal proceeding is pending against the owner.
- (B-1) INFORMATION THAT IS PROVIDED TO MAKE A DETERMINATION UNDER SUBSECTION (A)(1) AND THAT CONCERNS THE PAST DUE STATUS OF A FINE OR FEE IMPOSED FOR A CRIMINAL OFFENSE AND OWED TO THE COUNTY EXPIRES ON THE SECOND ANNIVERSARY OF THE DATE THE INFORMATION WAS PROVIDED AND MAY NOT BE USED TO REFUSE REGISTRATION AFTER THAT DATE. ONCE INFORMATION ABOUT A PAST DUE FINE OR FEE IS PROVIDED UNDER SUBSECTION (B), SUBSEQUENT INFORMATION ABOUT OTHER FINES OR FEES THAT ARE IMPOSED FOR A CRIMINAL OFFENSE AND THAT BECOME PAST DUE BEFORE THE SECOND ANNIVERSARY OF THE DATE THE INITIAL INFORMATION WAS PROVIDED MAY NOT BE USED, EITHER BEFORE OR AFTER THE SECOND ANNIVERSARY OF THAT DATE, TO REFUSE REGISTRATION UNDER THIS SECTION UNLESS THE MOTOR VEHICLE IS NO LONGER SUBJECT TO REFUSAL OF REGISTRATION BECAUSE OF NOTICE RECEIVED UNDER SUBSECTION (C).
- (c) A county that has a contract under Subsection (b) shall notify the department regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on:
- (1) the person's payment or other means of discharge , INCLUDING A WAIVER, of the past due fine, fee, or tax; or
 - (2) perfection of an appeal of the case contesting payment of the fine, fee, or tax.

- (I) A MUNICIPAL COURT JUDGE OR JUSTICE OF THE PEACE WHO HAS JURISDICTION OVER THE UNDERLYING OFFENSE MAY WAIVE AN ADDITIONAL FEE IMPOSED UNDER SUBSECTION (F) IF THE JUDGE OR JUSTICE MAKES A FINDING THAT THE DEFENDANT IS ECONOMICALLY UNABLE TO PAY THE FEE OR THAT GOOD CAUSE EXISTS FOR THE WAIVER.
- (J) IF A COUNTY ASSESSOR-COLLECTOR IS NOTIFIED THAT THE COURT HAVING JURISDICTION OVER THE UNDERLYING OFFENSE HAS WAIVED THE PAST DUE FINE OR FEE DUE TO THE DEFENDANT'S INDIGENCY, THE COUNTY MAY NOT IMPOSE AN ADDITIONAL FEE ON THE DEFENDANT UNDER SUBSECTION (F).

SECTION 24. Section 502.010(f), Transportation Code, as amended by Chapters 1094 (S.B. 1386) and 1296 (H.B. 2357), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

- (f) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A ~~A~~ county that has a contract under Subsection (b) may impose an additional fee of \$ 20 to:
- (1) a person who fails to pay a fine, fee, or tax to the county by the date on which the fine, fee, or tax is due; or
 - (2) a person who fails to appear in connection with a complaint, citation, information, or indictment in a court in which a criminal proceeding is pending against the owner. ~~The additional fee may be used only to reimburse the department or the county for its expenses for providing services under the contract.~~

SECTION 25. Section 706.005, Transportation Code, is amended to read as follows:

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

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
 - (2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose , OTHER THAN A DISMISSAL WITH PREJUDICE BY MOTION OF THE APPROPRIATE PROSECUTING ATTORNEY FOR LACK OF EVIDENCE ;
 - (3) the posting of bond or the giving of other security to reinstate the charge for which the warrant was issued;
 - (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
 - (5) other suitable arrangement to pay the fine and cost within the court's discretion.
- (b) The department may not continue to deny the renewal of the person's driver's license under this chapter after the department receives notice:
- (1) under Subsection (a);
 - (2) that the person was acquitted of the charge on which the person failed to appear;
 - (3) THAT THE CHARGE ON WHICH THE PERSON FAILED TO APPEAR WAS DISMISSED WITH PREJUDICE BY MOTION OF THE APPROPRIATE PROSECUTING ATTORNEY FOR LACK OF EVIDENCE; or
 - (4) (3) from the political subdivision that the failure to appear report or court order to pay a fine or cost relating to the person:
 - (A) was sent to the department in error; or

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

SECTION 26. Section 706.006, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (d) to read as follows:

- (a) **EXCEPT AS PROVIDED BY SUBSECTION (D), A** ~~A~~ person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$ 30 for each complaint or citation reported to the department under this chapter, unless :
- (1) the person is acquitted of the charges for which the person failed to appear ;
 - (2) **THE CHARGES ON WHICH THE PERSON FAILED TO APPEAR WERE DISMISSED WITH PREJUDICE BY MOTION OF THE APPROPRIATE PROSECUTING ATTORNEY FOR LACK OF EVIDENCE;**
 - (3) **THE FAILURE TO APPEAR REPORT WAS SENT TO THE DEPARTMENT IN ERROR; OR**
 - (4) **THE CASE REGARDING THE COMPLAINT OR CITATION IS CLOSED AND THE FAILURE TO APPEAR REPORT HAS BEEN DESTROYED IN ACCORDANCE WITH THE APPLICABLE POLITICAL SUBDIVISION'S RECORDS RETENTION POLICY .**
- (A-1) A ~~The~~ person **WHO IS REQUIRED TO PAY A FEE UNDER SUBSECTION (A)** shall pay the fee when:
- (1) the court enters judgment on the underlying offense reported to the department;
 - (2) the underlying offense is dismissed **, OTHER THAN A DISMISSAL DESCRIBED BY SUBSECTION (A)(2)** ; or
 - (3) bond or other security is posted to reinstate the charge for which the warrant was issued.
- (b) **EXCEPT AS PROVIDED BY SUBSECTION (D), A** ~~A~~ person who fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner the court orders shall be required to pay an administrative fee of \$ 30.
- (D) **IF THE COURT HAVING JURISDICTION OVER THE UNDERLYING OFFENSE MAKES A FINDING THAT THE PERSON IS INDIGENT, THE PERSON MAY NOT BE REQUIRED TO PAY AN ADMINISTRATIVE FEE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBSECTION, A PERSON IS PRESUMED TO BE INDIGENT IF THE PERSON:**
- (1) **IS REQUIRED TO ATTEND SCHOOL FULL TIME UNDER SECTION 25.085, EDUCATION CODE;**
 - (2) **IS A MEMBER OF A HOUSEHOLD WITH A TOTAL ANNUAL INCOME THAT IS BELOW 125 PERCENT OF THE APPLICABLE INCOME LEVEL ESTABLISHED BY THE FEDERAL POVERTY GUIDELINES; OR**
 - (3) **RECEIVES ASSISTANCE FROM:**
 - (A) **THE FINANCIAL ASSISTANCE PROGRAM ESTABLISHED UNDER CHAPTER 31, HUMAN RESOURCES CODE;**
 - (B) **THE MEDICAL ASSISTANCE PROGRAM UNDER CHAPTER 32, HUMAN RESOURCES CODE;**
 - (C) **THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED UNDER CHAPTER 33, HUMAN RESOURCES CODE;**
 - (D) **THE FEDERAL SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN AUTHORIZED BY 42 U.S.C. SECTION 1786; OR**
 - (E) **THE CHILD HEALTH PLAN PROGRAM UNDER CHAPTER 62, HEALTH AND SAFETY CODE.**

SECTION 27. Article 45.0492(e), Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, is repealed.

SECTION 28. The changes in law made by this Act to Articles 14.06 and 27.14, Code of Criminal Procedure, and Section 502.010 and Chapter 706, Transportation Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 29. The changes in law made by this Act to Articles 42.15, 43.09, 43.091, 45.014, 45.041, 45.046, 45.049, and 45.0491, Code of Criminal Procedure, and Articles 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, and 45.0492, Code of Criminal Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011, apply to a sentencing proceeding that commences before, on, or after the effective date of this Act.

SECTION 30. The change in law made by this Act to Articles 43.05 and 45.045, Code of Criminal Procedure, applies only to a capias pro fine issued on or after the effective date of this Act. A capias pro fine issued before the effective date of this Act is governed by the law in effect on the date the capias pro fine was issued, and the former law is continued in effect for that purpose.

SECTION 31. The changes in law made by this Act to Articles 45.016, 45.051, and 45.0511, Code of Criminal Procedure, apply only to a bond executed on or after the effective date of this Act. A bond executed before the effective date of this Act is governed by the law in effect when the bond was executed, and the former law is continued in effect for that purpose.

SECTION 32. The change in law made by this Act to Article 45.048, Code of Criminal Procedure, applies to a defendant who is placed in jail on or after the effective date of this Act for failure to pay the fine and costs imposed on conviction of an offense, regardless of whether the offense for which the defendant was convicted was committed before, on, or after the effective date of this Act.

SECTION 33. This Act takes effect September 1, 2017.

History

S.B. NO. 1913

Sponsor(s)

Zaffirini

Classification

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