

By: Bernal

H.B. No. 743

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a justice or municipal court's authority to order a
3 defendant confined in jail for failure to pay a fine or cost or for
4 contempt and to the authority of a municipality to enforce the
5 collection of certain fines by imprisonment of the defendant.

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

7 SECTION 1. Article 45A.251(d), Code of Criminal Procedure,
8 is amended to read as follows:

9 (d) The justice or judge shall credit the defendant for time
10 served in jail as provided by Article 42.03. The credit under this
11 subsection shall be applied to the amount of the fine and costs at
12 the rate of not less than \$150 for each period served that is not
13 less than eight hours or more than 24 hours, as specified by the
14 justice or judge [~~provided by Article 45A.262~~].

15 SECTION 2. The heading to Article 45A.261, Code of Criminal
16 Procedure, is amended to read as follows:

17 Art. 45A.261. HEARING ON DEFAULT [~~COMMITMENT~~].

18 SECTION 3. Article 45A.261(a), Code of Criminal Procedure,
19 is amended to read as follows:

20 (a) If a judgment and sentence have been entered against a
21 defendant and the defendant defaults in the discharge of the
22 judgment, the judge may order the defendant to appear [~~confined in~~
23 ~~jail until discharged by law if the judge~~] at a hearing and show
24 cause as to why the defendant defaulted in discharging the judgment

1 ~~[makes a written determination that:~~

2 ~~[(1) the defendant is not indigent and has failed to~~
3 ~~make a good faith effort to discharge the fines or costs; or~~

4 ~~[(2) the defendant is indigent and:~~

5 ~~[(A) has failed to make a good faith effort to~~
6 ~~discharge the fines or costs under Article 45A.254; and~~

7 ~~[(B) could have discharged the fines or costs~~
8 ~~under Article 45A.254 without experiencing any undue hardship].~~

9 SECTION 4. Subchapter F, Chapter 45A, Code of Criminal
10 Procedure, is amended by adding Article 45A.2615 to read as
11 follows:

12 Art. 45A.2615. CONFINEMENT FOR FAILURE TO SATISFY JUDGMENT
13 OR FOR CONTEMPT PROHIBITED. A justice or municipal court may not
14 order the confinement of a person, including a child as defined by
15 Article 45A.453(a), for:

16 (1) the failure to pay all or part of a fine or cost
17 imposed for the conviction of an offense punishable by fine only; or

18 (2) contempt of a judgment entered for the conviction
19 of an offense punishable by fine only.

20 SECTION 5. Article 45A.262(a), Code of Criminal Procedure,
21 is amended to read as follows:

22 (a) A defendant confined ~~[placed]~~ in jail ~~[due to failure to~~
23 ~~pay the fine and costs]~~ shall be discharged on habeas corpus by
24 showing that the defendant was confined in jail:

25 (1) in violation of Article 45A.2615 or 45A.461(b) ~~[is~~
26 ~~indigent and cannot pay the fine and costs]; or~~

27 (2) as a result of:

1 (A) failure to pay the applicable fine or cost
2 imposed by a judgment entered for the conviction of an offense
3 punishable by fine only; or

4 (B) contempt of a judgment described by Paragraph
5 (A) or, if the defendant is a child, contempt of an order of a
6 justice or municipal court ~~[has remained in jail for a cumulative~~
7 ~~period that is sufficient to satisfy the fine and costs, at the rate~~
8 ~~of not less than \$150 for each separate period served, as specified~~
9 ~~by the convicting court in the judgment in the case].~~

10 SECTION 6. Article 45A.264, Code of Criminal Procedure, is
11 amended by amending Subsection (b) and adding Subsection (b-1) to
12 read as follows:

13 (b) In addition to any other method of enforcement
14 authorized by law, the municipality may enforce the collection of
15 fines by[+]

16 ~~[(1)]~~ execution against the property of the defendant.

17 (b-1) A municipality may not enforce the collection of fines
18 by[+ or

19 ~~[(2)]~~ confinement of the defendant.

20 SECTION 7. The heading to Article 45A.461, Code of Criminal
21 Procedure, is amended to read as follows:

22 Art. 45A.461. FAILURE TO [~~PAY FINE OR~~] APPEAR.

23 SECTION 8. Article 45A.461(b), Code of Criminal Procedure,
24 is amended to read as follows:

25 (b) A justice or municipal court may not order the
26 confinement of a child for:

27 (1) ~~[the failure to pay all or part of a fine or cost~~

1 ~~imposed for the conviction of an offense punishable by fine only,~~

2 ~~[(2)]~~ the failure to appear for an offense committed by
3 the child; or

4 (2) ~~[(3)]~~ contempt of an ~~[another]~~ order of a justice
5 or municipal court.

6 SECTION 9. Section 21.002(c), Government Code, is amended
7 to read as follows:

8 (c) Subject to Articles 45A.2615 and 45A.461(b), Code of
9 Criminal Procedure, the ~~[The]~~ punishment for contempt of a justice
10 court or municipal court is a fine of not more than \$100 or
11 confinement in the county or municipal ~~[city]~~ jail for not more than
12 three days, or both such a fine and confinement in jail.

13 SECTION 10. The following provisions of the Code of
14 Criminal Procedure are repealed:

15 (1) Article 45A.261(b); and

16 (2) Article 45A.262(b).

17 SECTION 11. (a) Except as provided by Subsection (b) of this
18 section, the changes in law made by this Act apply only to a
19 judgment that has not been discharged before the effective date of
20 this Act and a judgment entered on or after the effective date of
21 this Act.

22 (b) Article 45A.461(b), Code of Criminal Procedure, as
23 amended by this Act, applies only to an order entered on or after
24 the effective date of this Act.

25 (c) Not later than September 2, 2025, a county or municipal
26 jail shall release each person who, on the effective date of this
27 Act, is confined in the county or municipal jail for:

1 (1) the failure to pay all or part of a fine or cost
2 imposed for the conviction of an offense punishable by fine only,
3 including confinement ordered under Article [45A.261](#), Code of
4 Criminal Procedure, as that article existed before the effective
5 date of this Act;

6 (2) contempt of a judgment entered for the conviction
7 of an offense punishable by fine only; or

8 (3) contempt of an order of a justice or municipal
9 court, if the person is a child as defined by Article [45A.453\(a\)](#),
10 Code of Criminal Procedure.

11 SECTION 12. This Act takes effect September 1, 2025.