

By: Keel

H.B. No. 2191

A BILL TO BE ENTITLED

AN ACT

relating to improving the collection of costs, fees, fines, and
restitution in criminal cases.

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

SECTION 1. Chapter 103, Code of Criminal Procedure, is
amended by adding Article 103.014 to read as follows:

Art. 103.014. COLLECTION INFORMATION REPORTS. (a) Not
later than March 1 of each year, the county treasurer of each
county, or the person authorized to perform the duties of the county
treasurer, shall file with the Office of Court Administration of
the Texas Judicial System in a form required by that office a
collection information report reflecting collections data and
information for criminal cases disposed of in the courts of the
county during the preceding county fiscal year.

(b) Not later than March 1 of each year, the governing body
of each municipality shall file with the Office of Court
Administration of the Texas Judicial System in a form required by
that office a collection information report reflecting collections
data and information for criminal cases disposed of in municipal
courts during the preceding municipal fiscal year.

SECTION 2. Article 103.0032, Code of Criminal Procedure, is
amended to read as follows:

Art. 103.0032. COLLECTION IMPROVEMENT PROGRAMS [~~PLANS~~].
Not later than January 1 of each even-numbered year, the Office of

1 Court Administration of the Texas Judicial System may award grants
2 to counties and municipalities to develop [~~prepare~~] a collections
3 program [~~collection plan~~]. The grants shall reimburse the county
4 or municipality for the cost of developing and implementing
5 [~~preparing~~] the program [~~plan~~]. The program [~~plan~~] shall consist
6 of [~~provide~~] methods to improve the in-house collection of court
7 costs, fees, and fines imposed in criminal cases, including at the
8 option of the governing body of the county or municipality, the
9 establishment of an in-house collections department to aid in the
10 collection of delinquent fines, court costs, restitution, taxes, or
11 other accounts receivable due the county or municipality. The
12 Office of Court Administration of the Texas Judicial System may
13 require that the county or municipality reimburse the state from
14 the additional collections as a condition of the grant.

15 SECTION 3. Article 103.0031(b), Code of Criminal Procedure,
16 is amended to read as follows:

17 (b)(1) A commissioners court or governing body of a
18 municipality that enters into a contract with a private attorney or
19 private vendor under this article may authorize the addition of
20 collection fees in the amount of 30 percent on each debt or account
21 receivable that is more than 60 days past due and has been referred
22 to the attorney or vendor for collection.

23 (2) The governing body of a county or municipality
24 that has established an in-house collections department as
25 described by Article 103.0032 may authorize the addition of
26 collection fees to each debt or account receivable that is
27 delinquent. The collection fee must be:

1 (A) equal to the actual cost to the governing
2 body making the collection, not to exceed the amount of 15 percent
3 of the past due debt; and

4 (B) assessed by an order of the court that:

5 (i) places the defendant on bench probation
6 as described by Article 43.03 and requires the immediate payment of
7 all amounts due; or

8 (ii) places the defendant in the custody of
9 the sheriff to satisfy the judgment according to Article 43.09.

10 SECTION 4. Article 43.03, Code of Criminal Procedure, is
11 amended by amending Subsection (a) and by adding Subsection (e) to
12 read as follows:

13 (a) If a defendant is sentenced to pay a fine, ~~or~~ costs, or
14 restitution ~~both~~ and the defendant defaults in payment according
15 to the terms of the judgment or a payment agreement established by
16 an in-house collections department described by Article 103.0032,
17 the court, after a hearing under Subsection (d) of this article and
18 after the filing of a sworn default report from the in-house
19 collections department, may order the issuance of a capias for the
20 arrest of the defendant for confinement ~~confined~~ in jail until
21 discharged as provided by law. The court ~~may~~ may order the
22 defendant to discharge the fines and costs in any other manner
23 provided by Article 43.09 of this code, or may waive payment of the
24 fines and costs as provided by Article 43.091. The default report
25 must contain any explanation concerning the defendant's failure to
26 pay ~~[A certified copy of the judgment, sentence, and order is~~
27 ~~sufficient to authorize confinement under this subsection].~~

1 (e) The court may order the defendant placed on bench
2 probation for the purpose of enforcing the payment of fines and
3 restitution and until the date that the payment of all fines and
4 restitution is satisfied. The clerk of the court shall notify the
5 defendant of the order. The court or the in-house collections
6 department as ordered by the court shall supervise the bench
7 probation, beginning at the applicable hearing. In this
8 subsection, "bench probation" means the period of supervision that
9 results from the defendant's failure to comply with the court's
10 judgment or the agreement to pay established by an in-house
11 collections department described by Article 103.0032.

12 SECTION 5. Article 43.09(a), Code of Criminal Procedure, is
13 amended to read as follows:

14 (a) When a defendant is convicted of a misdemeanor or felony
15 and a part of the [his] punishment includes [is assessed at] a
16 pecuniary fine, court costs, and restitution [or is confined in a
17 jail after conviction of a felony for which a fine is imposed], if
18 he is unable to pay the fine, [and] costs, and restitution adjudged
19 against him, he may for such time as will satisfy the judgment be
20 put to work in the county jail industries program, in the workhouse,
21 or on the county farm, or public improvements and maintenance
22 projects of the county or a political subdivision located in whole
23 or in part in the county, as provided in the succeeding article; or
24 if there be no such county jail industries program, workhouse,
25 farm, or improvements and maintenance projects, he shall be
26 confined in jail for a sufficient length of time to discharge the
27 full amount of fine and costs adjudged against him; rating such

1 confinement at \$50 for each day and rating such labor at \$50 for
2 each day; provided, however, that the defendant may pay the
3 pecuniary fine assessed against him at any time while he is serving
4 at work in the county jail industries program, in the workhouse, or
5 on the county farm, or on the public improvements and maintenance
6 projects of the county or a political subdivision located in whole
7 or in part in the county, or while he is serving his jail sentence,
8 and in such instances he shall be entitled to the credit he has
9 earned under this subsection during the time that he has served and
10 he shall only be required to pay his balance of the pecuniary fine
11 assessed against him. A defendant who performs labor under this
12 article during a day in which he is confined is entitled to both the
13 credit for confinement and the credit for labor provided by this
14 article.

15 SECTION 6. Article 43.12, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 43.12. CAPIAS FOR CONFINEMENT. A capias issued for the
18 arrest and commitment of one convicted of a misdemeanor or a felony,
19 the penalty of which or any part thereof is a fine, shall recite the
20 judgment and sentence and command the sheriff to immediately bring
21 the defendant before the court; and this writ shall be sufficient
22 to authorize the sheriff to place the defendant in jail until the
23 defendant appears before the court.

24 SECTION 7. Article 43.13(b), Code of Criminal Procedure, is
25 amended to read as follows:

26 (b) A defendant convicted of a misdemeanor or a felony and
27 sentenced to a term of confinement of more than 30 days discharges

1 the defendant's sentence at any time between the hours of 6 a.m. and
2 7 p.m. on the day of discharge.

3 SECTION 8. Section 507.032, Government Code, is amended to
4 read as follows:

5 Sec. 507.032. IDENTIFICATION OF DEFENDANTS SUBJECT TO
6 ARREST WARRANT AND NOTICE OF RELEASE. (a) Before a defendant is
7 released from confinement in a state jail felony facility, the
8 department shall conduct a criminal history record check to
9 determine whether the defendant is the subject of an arrest
10 warrant. In conducting the criminal history record check, the
11 department shall allow sufficient time for compliance with any
12 requirements related to notifying the proper authorities of the
13 defendant's release and, if necessary, processing a demand for
14 extradition of the defendant.

15 (b) Not later than the 11th day before the date an inmate is
16 released from a state jail facility, the department shall give
17 notice in accordance with Subsection (c) to:

18 (1) the sheriff of the county in which the inmate was
19 convicted;

20 (2) the attorney who represents the state in the
21 prosecution of felonies in the county in which the inmate was
22 convicted; and

23 (3) the district judge and the clerk of the court in
24 the county of conviction.

25 (c) The notice must state:

26 (1) the inmate's name;

27 (2) the county in which the inmate was convicted; and

1 (3) the offense for which the inmate was convicted.

2 (d) On a determination by the convicting county that the
3 inmate has failed to satisfy the terms of the judgment or sentence,
4 including the payment of all fines, costs, and restitution, the
5 county of conviction may request the department to release the
6 inmate to the custody of the sheriff of the convicting county for
7 return to the county not earlier than five working days before the
8 anticipated date of release to satisfy the terms of the judgment or
9 sentence or to make comparable arrangements with respect to the
10 judgment or sentence at the discretion of the court. The county of
11 conviction may use the collection process described by Article
12 43.09, Code of Criminal Procedure. If the convicting county has an
13 in-house collections department, the court may direct the inmate be
14 delivered to the collections officer of the county for
15 determination of the inmate's ability to pay or to establish a
16 payment agreement.

17 SECTION 9. Section 508.115, Government Code, is amended by
18 amending Subsections (a)-(c) and adding Subsections (e) and (f) to
19 read as follows:

20 (a) Not later than the 11th day before the date a parole
21 panel orders the release on parole of an inmate or not later than
22 the 11th day after the date the board recommends that the governor
23 grant executive clemency, the division shall notify the sheriffs,
24 each chief of police, the prosecuting attorneys, ~~and~~ the district
25 judges, and the clerk of the convicting court in the county in which
26 the inmate was convicted and the county to which the inmate is
27 released that a parole panel is considering release on parole or the

1 governor is considering clemency.

2 (b) In a case in which there was a change of venue, the
3 division shall notify the sheriff, the prosecuting attorney, ~~and~~
4 the district judge, and the clerk of the court in the county in
5 which the prosecution was originated if, not later than the 30th day
6 after the date the inmate was sentenced, those officials request in
7 writing that the division give the officials notice under this
8 section of a release of the inmate.

9 (c) Not later than the 10th day after the date a parole panel
10 orders the transfer of an inmate to a halfway house under this
11 chapter, the division shall give notice in accordance with
12 Subsection (d) to:

13 (1) the sheriff of the county in which the inmate was
14 convicted;

15 (2) the sheriff of the county in which the halfway
16 house is located and each chief of police in the county; ~~and~~

17 (3) the attorney who represents the state in the
18 prosecution of felonies in the county in which the halfway house is
19 located; and

20 (4) the district judge and clerk of the court in the
21 county of conviction.

22 (e) Notice to the district judge and clerk of the court in
23 the county of conviction must be made by certified mail, return
24 receipt requested.

25 (f) On a determination by the convicting county that the
26 inmate has failed to satisfy the terms of the judgment or sentence,
27 including payment of all fines and costs and payment or restitution

1 required to be paid under Article 42.037(h), Code of Criminal
2 Procedure, the county of conviction may request the board to
3 release the inmate to the custody of the sheriff of the convicting
4 county for return to the county not earlier than five working days
5 before the anticipated date of release to satisfy the terms of the
6 judgment or sentence or to make comparable arrangements with
7 respect to the judgment or sentence at the discretion of the court.
8 The county of conviction may use the collection process described
9 by Article 43.09, Code of Criminal Procedure. If the convicting
10 county has an in-house collections department, the court may direct
11 the inmate be delivered to the collections officer of the county for
12 determination of the inmate's ability to pay or to establish a
13 payment agreement.

14 SECTION 10. Section 508.156, Government Code, is amended by
15 adding Subsection (g) to read as follows:

16 (g) By certified mail, return receipt requested, the panel
17 shall notify the convicting county of the anticipated release of an
18 inmate not later than the 11th day before the anticipated date of
19 release.

20 SECTION 11. Subchapter F, Chapter 508, Government Code, is
21 amended by adding Section 508.192 to read as follows:

22 Sec. 508.192. UNPAID COURT COSTS. A parole panel shall
23 require as a condition of parole or mandatory supervision that a
24 releasee pay to the county in which the inmate was convicted any
25 unpaid fine, if assessed, and all unpaid court costs. The releasee
26 may be required to make the payments in one payment or periodic
27 payments as set by the convicting court or an in-house collections

1 department established by the convicting county.

2 SECTION 12. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2003.