

By: Hilderbran

H.B. No. 3241

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution and adjudication of an offense in  
3 justice or municipal courts.

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

5 SECTION 1. Article 2.07(d), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (d) In this article, "attorney for the state" means a county  
8 attorney, a district attorney, a municipal prosecutor, or a  
9 criminal district attorney.

10 SECTION 2. Article 15.18, Code of Criminal Procedure, is  
11 amended to read as follows:

12 Art. 15.18. ARREST FOR OUT-OF-COUNTY OFFENSE. (a) A person  
13 arrested under a warrant issued in a county other than the one in  
14 which the person is arrested shall be taken before a magistrate of  
15 the county where the arrest takes place who shall:

16 (1) take bail, if allowed by law, and immediately  
17 transmit the bond taken to the court having jurisdiction of the  
18 offense; or

19 (2) in the case of a person arrested [~~under warrant~~]  
20 for an offense punishable by fine only, with the approval of the  
21 magistrate or court issuing the warrant, accept a written plea of  
22 guilty or nolo contendere, set a fine, determine costs, accept  
23 payment of the fine and costs, give credit for time served,  
24 determine indigency, enter a final judgment in the case, and [~~or~~]

1 on satisfaction of the judgment[7] discharge the defendant, as the  
2 case may indicate.

3 (b) Before the 11th business day after the date a magistrate  
4 accepts a written plea of guilty or nolo contendere in a case under  
5 Subsection (a)(2), the magistrate shall transmit to the court  
6 having jurisdiction of the offense:

- 7 (1) the written plea;  
8 (2) any judgment or orders entered in the case; and  
9 (3) any fine or costs collected in the case.

10 (c) This article does not apply to capias pro fine warrants  
11 issued under Article 45.045.

12 SECTION 3. 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 determines that:

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

21 (2) the defendant is [not] indigent and has failed to  
22 make a good faith effort to discharge the fine and costs under  
23 Article 45.049.

24 SECTION 4. Subchapter B, Chapter 45, Code of Criminal  
25 Procedure, is amended by adding Article 45.0491 to read as follows:

26 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR  
27 INDIGENT DEFENDANTS IN JUSTICE OR MUNICIPAL COURT. A municipal

1 court, regardless of whether the court is a court of record, or a  
2 justice court may waive payment of a fine or cost imposed on a  
3 defendant who defaults in payment if the court determines that:

4 (1) the defendant is indigent; and

5 (2) each alternative method of discharging the fine or  
6 cost under Article 45.049 would impose an undue hardship on the  
7 defendant.

8 SECTION 5. Article 43.091, Code of Criminal Procedure, is  
9 repealed.

10 SECTION 6. This Act takes effect September 1, 2003.