

BILL ANALYSIS

Senate Research Center
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H.B. 2267
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Supreme Court decision in *Tate v. Short* (1971) held that it is unconstitutional to convert a fine into jail time for an indigent defendant who is unable to pay a fine. This case has since been used by municipal courts to offer alternative payment options to defendants in fine-only misdemeanor cases where the offender is determined to be indigent. However, since statutory authority to do this does not exist, judges have become hesitant to continue offering such options.

H.B. 2267 authorizes a judge in misdemeanor cases involving a fine-only punishment to provide for alternative fine payment options and a show cause hearing upon conclusion of a deferral period. This bill also clarifies the statutory direction regarding the process by which punishments are determined in fine-only misdemeanor cases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 45.051, Code of Criminal Procedure, by amending Subsections (d) and (d-1) and adding Subsections (a-1), (c-1), and (c-2), as follows:

(a-1) Authorizes a judge, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a) and in the judge's discretion, to allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation; to require an eligible defendant to discharge all or part of those cost by performing community service under Article 45.049 (Community Service in Satisfaction of Fine or Costs); or to take any combination of the aforementioned actions, notwithstanding any other provision of law.

(c-1) Requires the court to take certain actions if the defendant fails to present within the deferral period satisfactory evidence of compliance with the requirements imposed by the judge under this article.

(c-2) Authorizes a court, on the defendant's showing of good cause for failure to present satisfactory evidence of compliance with the requirements imposed by the judge under this article, to allow an additional period during which the defendant may present evidence of the defendant's compliance with the requirements.

(d) Authorizes a judge, if on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, to impose the fine or impose a lesser fine.

(d-1) Requires the judge, if the defendant was required to complete a driving safety course or an examination under Subsection (b-1) and on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present satisfactory evidence that the defendant completed that course or examination, to impose the fine assessed.

SECTION 2. Makes application of the change in law made by this Act to Article 45.051, Code of Criminal Procedure, prospective.

SECTION 3. Effective date: September 1, 2007.