

By: Turner

H.B. No. 312

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the burden of proof in a community supervision  
3 revocation hearing regarding a defendant's ability to make certain  
4 court-ordered payments.

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

6 SECTION 1. Section 21(c), Article 42.12, Code of Criminal  
7 Procedure, is amended to read as follows:

8 (c) In a community supervision revocation hearing at which  
9 it is alleged only that the defendant violated the conditions of  
10 community supervision by failing to pay compensation paid to  
11 appointed counsel, community supervision fees, or court costs,  
12 ~~[restitution, or reparations,]~~ the state must prove by a  
13 preponderance of the evidence that ~~[inability of]~~ the defendant was  
14 able to pay and did not pay as ordered by the judge ~~[is an~~  
15 ~~affirmative defense to revocation, which the defendant must prove~~  
16 ~~by a preponderance of evidence]~~. The court may order a community  
17 supervision and corrections department to obtain information  
18 pertaining to the factors listed under Article 42.037(h) of this  
19 code and include that information in the report required under  
20 Section 9(a) of this article or a separate report, as the court  
21 directs.

22 SECTION 2. The change in law made by this Act applies only  
23 to a community supervision revocation hearing held on or after the  
24 effective date of this Act.

1 SECTION 3. This Act takes effect September 1, 2007.