

AN ACT

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

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

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

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 312 was passed by the House on May 1, 2007, by the following vote: Yeas 123, Nays 20, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 312 was passed by the Senate on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor