

By: Turner

H.B. No. 312

Substitute the following for H.B. No. 312:

By: Pena

C.S.H.B. No. 312

A BILL TO BE ENTITLED

AN ACT

1
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].~~

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

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