

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, 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 but unwilling to pay as ordered by the judge ~~[is an affirmative~~
15 ~~defense to revocation, which the defendant must prove by a~~
16 ~~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.