

1-1 By: Miklos (Senate Sponsor - Carona) H.B. No. 1544  
1-2 (In the Senate - Received from the House May 1, 2009;  
1-3 May 6, 2009, read first time and referred to Committee on Criminal  
1-4 Justice; May 23, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;  
1-6 May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1544 By: Whitmire

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to court proceedings for a plea of guilty or nolo  
1-11 contendere for a misdemeanor punishable by fine only.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Article 27.14(b), Code of Criminal Procedure, is  
1-14 amended to read as follows:

1-15 (b) A defendant charged with a misdemeanor for which the  
1-16 maximum possible punishment is by fine only may, in lieu of the  
1-17 method provided in Subsection (a) of this article, mail or deliver  
1-18 in person to the court a plea of "guilty" or a plea of "nolo  
1-19 contendere" and a waiver of jury trial. The defendant may also  
1-20 request in writing that the court notify the defendant, at the  
1-21 address stated in the request, of the amount of an appeal bond that  
1-22 the court will approve. If the court receives a plea and waiver  
1-23 before the time the defendant is scheduled to appear in court, the  
1-24 court shall dispose of the case without requiring a court  
1-25 appearance by the defendant. If the court receives a plea and  
1-26 waiver after the time the defendant is scheduled to appear in court  
1-27 but at least five business days before a scheduled trial date, the  
1-28 court shall dispose of the case without requiring a court  
1-29 appearance by the defendant. The court shall notify the defendant  
1-30 either in person or by certified mail, return receipt requested, of  
1-31 the amount of any fine assessed in the case and, if requested by the  
1-32 defendant, the amount of an appeal bond that the court will approve.  
1-33 The defendant shall pay any fine assessed or give an appeal bond in  
1-34 the amount stated in the notice before the 31st day after receiving  
1-35 the notice.

1-36 SECTION 2. Articles 45.051(a), (a-1), (b), and (c), Code of  
1-37 Criminal Procedure, are amended to read as follows:

1-38 (a) On a plea of guilty or nolo contendere by a defendant or  
1-39 on a finding of guilt in a misdemeanor case punishable by fine only  
1-40 and payment of all court costs, the judge may [~~at the judge's~~  
1-41 ~~discretion,~~] defer further proceedings without entering an  
1-42 adjudication of guilt and place the defendant on probation for a  
1-43 period not to exceed 180 days. In issuing the order of deferral,  
1-44 the judge may impose a special expense fee on the defendant in an  
1-45 amount not to exceed the amount of the fine that could be imposed on  
1-46 the defendant as punishment for the offense. The special expense  
1-47 fee may be collected at any time before the date on which the period  
1-48 of probation ends. The judge may elect not to impose the special  
1-49 expense fee for good cause shown by the defendant. If the judge  
1-50 orders the collection of a special expense fee, the judge shall  
1-51 require that the amount of the special expense fee be credited  
1-52 toward the payment of the amount of the fine imposed by the judge.  
1-53 An order of deferral under this subsection terminates any liability  
1-54 under a bail bond or an appearance bond given for the charge.

1-55 (a-1) Notwithstanding any other provision of law, as an  
1-56 alternative to requiring a defendant charged with one or more  
1-57 offenses to make payment of all court costs as required by  
1-58 Subsection (a), the judge [~~in the judge's discretion,~~] may:

1-59 (1) allow the defendant to enter into an agreement for  
1-60 payment of those costs in installments during the defendant's  
1-61 period of probation;

1-62 (2) require an eligible defendant to discharge all or  
1-63 part of those costs by performing community service under Article

2-1 45.049; or  
2-2 (3) take any combination of actions authorized by  
2-3 Subdivision (1) or (2).

2-4 (b) During the deferral period, the judge may~~[, at the~~  
2-5 ~~judge's discretion,]~~ require the defendant to:

2-6 (1) post a bond in the amount of the fine assessed to  
2-7 secure payment of the fine;

2-8 (2) pay restitution to the victim of the offense in an  
2-9 amount not to exceed the fine assessed;

2-10 (3) submit to professional counseling;

2-11 (4) submit to diagnostic testing for alcohol or a  
2-12 controlled substance or drug;

2-13 (5) submit to a psychosocial assessment;

2-14 (6) participate in an alcohol or drug abuse treatment  
2-15 or education program;

2-16 (7) pay the costs of any diagnostic testing,  
2-17 psychosocial assessment, or participation in a treatment or  
2-18 education program either directly or through the court as court  
2-19 costs;

2-20 (8) complete a driving safety course approved under  
2-21 Chapter 1001, Education Code, or another course as directed by the  
2-22 judge;

2-23 (9) present to the court satisfactory evidence that  
2-24 the defendant has complied with each requirement imposed by the  
2-25 judge under this article; and

2-26 (10) comply with any other reasonable condition.

2-27 (c) On determining that the defendant has complied with the  
2-28 requirements imposed by the judge under this article, the judge  
2-29 shall dismiss the complaint, and it shall be clearly noted in the  
2-30 docket that the complaint is dismissed and that there is not a final  
2-31 conviction. ~~[If the complaint is dismissed, a special expense not~~  
2-32 ~~to exceed the amount of the fine assessed may be imposed.]~~

2-33 SECTION 3. The change in law made by this Act applies only  
2-34 to an offense committed on or after the effective date of this Act.  
2-35 An offense committed before the effective date of this Act is  
2-36 governed by the law in effect at the time the offense was committed,  
2-37 and the former law is continued in effect for that purpose. For  
2-38 purposes of this section, an offense was committed before the  
2-39 effective date of this Act if any element of the offense occurred  
2-40 before that date.

2-41 SECTION 4. This Act takes effect September 1, 2009.

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