

1-1 By: Walle (Senate Sponsor - Van de Putte) H.B. No. 350
1-2 (In the Senate - Received from the House March 31, 2011;
1-3 April 13, 2011, read first time and referred to Committee on
1-4 Criminal Justice; May 12, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 12, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 350 By: Hinojosa

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

1-10 relating to discharging fines and costs assessed against certain
1-11 juvenile defendants through community service or tutoring.

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

1-13 SECTION 1. Subchapter B, Chapter 45, Code of Criminal
1-14 Procedure, is amended by adding Article 45.0492 to read as follows:

1-15 Art. 45.0492. COMMUNITY SERVICE OR TUTORING IN SATISFACTION
1-16 OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a) This
1-17 article applies only to a defendant younger than 17 years of age who
1-18 is assessed a fine or costs for a Class C misdemeanor occurring in a
1-19 building or on the grounds of the primary or secondary school at
1-20 which the defendant was enrolled at the time of the offense.

1-21 (b) A justice or judge may require a defendant described by
1-22 Subsection (a) to discharge all or part of the fine or costs by
1-23 performing community service or attending a tutoring program that
1-24 is satisfactory to the court. A defendant may discharge an
1-25 obligation to perform community service or attend a tutoring
1-26 program under this article by paying at any time the fine and costs
1-27 assessed.

1-28 (c) In the justice's or judge's order requiring a defendant
1-29 to participate in community service work or a tutoring program
1-30 under this article, the justice or judge must specify the number of
1-31 hours the defendant is required to work or attend tutoring.

1-32 (d) The justice or judge may order the defendant to perform
1-33 community service work under this article only for a governmental
1-34 entity or a nonprofit organization that provides services to the
1-35 general public that enhance social welfare and the general
1-36 well-being of the community. A governmental entity or nonprofit
1-37 organization that accepts a defendant under this article to perform
1-38 community service must agree to supervise the defendant in the
1-39 performance of the defendant's work and report on the defendant's
1-40 work to the justice or judge who ordered the community service.

1-41 (e) A tutoring program that accepts a defendant under this
1-42 article must agree to supervise the defendant in the attendance of
1-43 the tutoring program and report on the defendant's work to the
1-44 justice or judge who ordered the tutoring.

1-45 (f) A justice or judge may not order a defendant to perform
1-46 more than 16 hours of community service per week or attend more than
1-47 16 hours of tutoring per week under this article unless the justice
1-48 or judge determines that requiring additional hours of work or
1-49 tutoring does not cause a hardship on the defendant or the
1-50 defendant's family. For purposes of this subsection, "family" has
1-51 the meaning assigned by Section 71.003, Family Code.

1-52 (g) A defendant is considered to have discharged not less
1-53 than \$50 of fines or costs for each eight hours of community service
1-54 performed or tutoring program attended under this article.

1-55 (h) A sheriff, employee of a sheriff's department, county
1-56 commissioner, county employee, county judge, justice of the peace,
1-57 municipal court judge, officer or employee of a political
1-58 subdivision other than a county, nonprofit organization, or
1-59 tutoring program is not liable for damages arising from an act or
1-60 failure to act in connection with an activity performed by a
1-61 defendant under this article if the act or failure to act:

1-62 (1) was performed pursuant to court order; and

1-63 (2) was not intentional, grossly negligent, or

2-1 performed with conscious indifference or reckless disregard for the
2-2 safety of others.

2-3 (i) A local juvenile probation department or a
2-4 court-related services office may provide the administrative and
2-5 other services necessary for supervision of a defendant required to
2-6 perform community service under this article.

2-7 SECTION 2. Article 45.051(a-1), Code of Criminal Procedure,
2-8 is amended to read as follows:

2-9 (a-1) Notwithstanding any other provision of law, as an
2-10 alternative to requiring a defendant charged with one or more
2-11 offenses to make payment of all court costs as required by
2-12 Subsection (a), the judge may:

2-13 (1) allow the defendant to enter into an agreement for
2-14 payment of those costs in installments during the defendant's
2-15 period of probation;

2-16 (2) require an eligible defendant to discharge all or
2-17 part of those costs by performing community service or attending a
2-18 tutoring program under Article 45.049 or 45.0492; or

2-19 (3) take any combination of actions authorized by
2-20 Subdivision (1) or (2).

2-21 SECTION 3. The changes in law made by this Act apply only to
2-22 an offense committed or conduct that occurs on or after the
2-23 effective date of this Act. An offense committed or conduct that
2-24 occurs before the effective date of this Act is governed by the law
2-25 in effect when the offense was committed or the conduct occurred,
2-26 and the former law is continued in effect for that purpose. For
2-27 purposes of this section, an offense is committed or conduct occurs
2-28 before the effective date of this Act if any element of the offense
2-29 or conduct occurs before the effective date.

2-30 SECTION 4. This Act takes effect September 1, 2011.

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