

SENATE AMENDMENTS

2nd Printing

By: Walle

H.B. No. 350

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(d) The justice or judge may order the defendant to perform

1 community service work under this article only for a governmental
2 entity or a nonprofit organization that provides services to the
3 general public that enhance social welfare and the general
4 well-being of the community. A governmental entity or nonprofit
5 organization that accepts a defendant under this article to perform
6 community service must agree to supervise the defendant in the
7 performance of the defendant's work and report on the defendant's
8 work to the justice or judge who ordered the community service.

9 (e) A tutoring program that accepts a defendant under this
10 article must agree to supervise the defendant in the attendance of
11 the tutoring program and report on the defendant's work to the
12 justice or judge who ordered the tutoring.

13 (f) A justice or judge may not order a defendant to perform
14 more than 16 hours of community service per week or attend more than
15 16 hours of tutoring per week under this article unless the justice
16 or judge determines that requiring additional hours of work or
17 tutoring does not cause a hardship on the defendant or the
18 defendant's family. For purposes of this subsection, "family" has
19 the meaning assigned by Section 71.003, Family Code.

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

23 (h) A sheriff, employee of a sheriff's department, county
24 commissioner, county employee, county judge, justice of the peace,
25 municipal court judge, officer or employee of a political
26 subdivision other than a county, nonprofit organization, or
27 tutoring program is not liable for damages arising from an act or

1 failure to act in connection with an activity performed by a
2 defendant under this article if the act or failure to act:

3 (1) was performed pursuant to court order; and

4 (2) was not intentional, grossly negligent, or
5 performed with conscious indifference or reckless disregard for the
6 safety of others.

7 (i) A community supervision and corrections department or a
8 court-related services office may provide the administrative and
9 other services necessary for supervision of a defendant required to
10 perform community service under this article.

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

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

17 (1) allow the defendant to enter into an agreement for
18 payment of those costs in installments during the defendant's
19 period of probation;

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

23 (3) take any combination of actions authorized by
24 Subdivision (1) or (2).

25 SECTION 3. The changes in law made by this Act apply only to
26 an offense committed or conduct that occurs on or after the
27 effective date of this Act. An offense committed or conduct that

1 occurs before the effective date of this Act is governed by the law
2 in effect when the offense was committed or the conduct occurred,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense is committed or conduct occurs
5 before the effective date of this Act if any element of the offense
6 or conduct occurs before the effective date.

7 SECTION 4. This Act takes effect September 1, 2011.

ADOPTED

MAY 19 2011

Atay Law
Secretary of the Senate

By: *Ruticia VandePutte*

H.B. No. 350

Substitute the following for H.B. No. 350:

By: *J. J. Arny*

C.S. H.B. No. 350

A BILL TO BE ENTITLED

AN ACT

1

2 relating to discharging fines and costs assessed against certain
3 juvenile defendants through community service or tutoring.

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

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

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

13 (b) A justice or judge may require a defendant described by
14 Subsection (a) to discharge all or part of the fine or costs by
15 performing community service or attending a tutoring program that
16 is satisfactory to the court. A defendant may discharge an
17 obligation to perform community service or attend a tutoring
18 program under this article by paying at any time the fine and costs
19 assessed.

20 (c) In the justice's or judge's order requiring a defendant
21 to participate in community service work or a tutoring program
22 under this article, the justice or judge must specify the number of
23 hours the defendant is required to work or attend tutoring.

24 (d) The justice or judge may order the defendant to perform

1 community service work under this article only for a governmental
2 entity or a nonprofit organization that provides services to the
3 general public that enhance social welfare and the general
4 well-being of the community. A governmental entity or nonprofit
5 organization that accepts a defendant under this article to perform
6 community service must agree to supervise the defendant in the
7 performance of the defendant's work and report on the defendant's
8 work to the justice or judge who ordered the community service.

9 (e) A tutoring program that accepts a defendant under this
10 article must agree to supervise the defendant in the attendance of
11 the tutoring program and report on the defendant's work to the
12 justice or judge who ordered the tutoring.

13 (f) A justice or judge may not order a defendant to perform
14 more than 16 hours of community service per week or attend more than
15 16 hours of tutoring per week under this article unless the justice
16 or judge determines that requiring additional hours of work or
17 tutoring does not cause a hardship on the defendant or the
18 defendant's family. For purposes of this subsection, "family" has
19 the meaning assigned by Section 71.003, Family Code.

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

23 (h) A sheriff, employee of a sheriff's department, county
24 commissioner, county employee, county judge, justice of the peace,
25 municipal court judge, officer or employee of a political
26 subdivision other than a county, nonprofit organization, or
27 tutoring program is not liable for damages arising from an act or

1 failure to act in connection with an activity performed by a
2 defendant under this article if the act or failure to act:

3 (1) was performed pursuant to court order; and

4 (2) was not intentional, grossly negligent, or
5 performed with conscious indifference or reckless disregard for the
6 safety of others.

7 (i) A local juvenile probation department or a
8 court-related services office may provide the administrative and
9 other services necessary for supervision of a defendant required to
10 perform community service under this article.

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

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

17 (1) allow the defendant to enter into an agreement for
18 payment of those costs in installments during the defendant's
19 period of probation;

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

23 (3) , take any combination of actions authorized by
24 Subdivision (1) or (2).

25 SECTION 3. The changes in law made by this Act apply only to
26 an offense committed or conduct that occurs on or after the
27 effective date of this Act. An offense committed or conduct that

1 occurs before the effective date of this Act is governed by the law
2 in effect when the offense was committed or the conduct occurred,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense is committed or conduct occurs
5 before the effective date of this Act if any element of the offense
6 or conduct occurs before the effective date.

7 SECTION 4. This Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB350 by Walle (Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a justice or a judge to dismiss all or part of a defendant's costs or fines for a Class C misdemeanor if the defendant is under the age of 17 and the offense was committed on the primary or secondary school property that the defendant was enrolled in at the time of the offense. The justice or judge could dismiss a defendant's costs or fines in the amount of not less than \$50 per eight hours of community service or require attendance in a tutoring program. Under current statute, courts currently have the option to require an eligible defendant to discharge all or part of the fines by performing community service.

A Class C misdemeanor is punishable by a fine of not more than \$500.

According to the Office of Court Administration (OCA), in some jurisdictions, 58 percent of the total number of citations issued to minors involve offenses on school grounds; therefore, the provisions of the bill may apply to a large number of cases. Although there may be an increased number of cases, the provisions of the bill are not anticipated to have a significant fiscal impact on the affected courts.

According to the Comptroller of Public Accounts (CPA), the effect on the bill on court costs and fines cannot be determined. However, this analysis assumes that to the extent a judge waives fines and costs in lieu of service, no significant loss in revenue to the state is anticipated.

Local Government Impact

Costs associated with enforcement and revenue gain from fines imposed and collected would vary depending on the number of offenses, but are not anticipated to have a significant fiscal implication.

According to the City of Austin Municipal Court, the fiscal impact is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission

LBB Staff: JOB, SD, ESi, TP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 6, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB350 by Walle (Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a justice or a judge to dismiss all or part of a defendant's costs or fines for a Class C misdemeanor if the defendant is under the age of 17 and the offense was committed on the primary or secondary school property that the defendant was enrolled in at the time of the offense. The justice or judge could dismiss a defendant's costs or fines in the amount of not less than \$50 per eight hours of community service or require attendance in a tutoring program. Under current statute, courts currently have the option to require an eligible defendant to discharge all or part of the fines by performing community service.

A Class C misdemeanor is punishable by a fine of not more than \$500.

According to the Office of Court Administration (OCA), in some jurisdictions, 58 percent of the total number of citations issued to minors involve offenses on school grounds; therefore, the provisions of the bill may apply to a large number of cases. Although there may be an increased number of cases, the provisions of the bill are not anticipated to have a significant fiscal impact on the affected courts.

According to the Comptroller of Public Accounts (CPA), the effect on the bill on court costs and fines cannot be determined. However, this analysis assumes that to the extent a judge waives fines and costs in lieu of service, no significant loss in revenue to the state is anticipated.

Local Government Impact

Costs associated with enforcement and revenue gain from fines imposed and collected would vary depending on the number of offenses, but are not anticipated to have a significant fiscal implication.

According to the City of Austin Municipal Court, the fiscal impact is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission

LBB Staff: JOB, ESi, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 29, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB350 by Walle (Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a justice or a judge to dismiss all or part of a defendant's costs or fines for a Class C misdemeanor if the defendant is under the age of 17 and the offense was committed on the primary or secondary school property that the defendant was enrolled in at the time of the offense. The justice or judge could dismiss a defendant's costs or fines in the amount of not less than \$50 per eight hours of community service or require attendance in a tutoring program. Under current statute, courts currently have the option to require an eligible defendant to discharge all or part of the fines by performing community service.

A Class C misdemeanor is punishable by a fine of not more than \$500.

According to the Office of Court Administration (OCA), in some jurisdictions, 58 percent of the total number of citations issued to minors involve offenses on school grounds; therefore, the provisions of the bill may apply to a large number of cases. Although there may be an increased number of cases, the provisions of the bill are not anticipated to have a significant fiscal impact on the affected courts.

According to the Comptroller of Public Accounts (CPA), the effect on the bill on court costs and fines cannot be determined. However, this analysis assumes that to the extent a judge waives fines and costs in lieu of service, no significant loss in revenue to the state is anticipated.

Local Government Impact

Costs associated with enforcement and revenue gain from fines imposed and collected would vary depending on the number of offenses, but are not anticipated to have a significant fiscal implication.

According to the City of Austin Municipal Court, the fiscal impact is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission

LBB Staff: JOB, ESi, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 7, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB350 by Walle (Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a justice or a judge to dismiss all or part of a defendant's costs or fines for a Class C misdemeanor if the defendant is under the age of 17 and the offense was committed on the primary or secondary school property that the defendant was enrolled in at the time of the offense. The justice or judge could dismiss a defendant's costs or fines in the amount of not less than \$50 per eight hours of community service or require attendance in a tutoring program. Under current statute, courts currently have the option to require an eligible defendant to discharge all or part of the fines by performing community service.

A Class C misdemeanor is punishable by a fine of not more than \$500.

According to the Office of Court Administration (OCA), in some jurisdictions, 58 percent of the total number of citations issued to minors involve offenses on school grounds; therefore, the provisions of the bill may apply to a large number of cases. Although there may be an increased number of cases, the provisions of the bill are not anticipated to have a significant fiscal impact on the affected courts.

According to the Comptroller of Public Accounts (CPA), the effect on the bill on court costs and fines cannot be determined. However, this analysis assumes that to the extent a judge waives fines and costs in lieu of service, no significant loss in revenue to the state is anticipated.

Local Government Impact

Costs associated with enforcement and revenue gain from fines imposed and collected would vary depending on the number of offenses, but are not anticipated to have a significant fiscal implication.

According to the City of Austin Municipal Court, the fiscal impact is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission

LBB Staff: JOB, ESi, TP

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 6, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB350 by Walle (Relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM