

SENATE AMENDMENTS

2nd Printing

By: Villarreal, et al.

H.B. No. 1964

A BILL TO BE ENTITLED

AN ACT

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

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 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.

(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. A defendant may discharge an obligation to perform community service 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 perform community service under this article, the justice or judge shall specify the number of hours of service the defendant is required to perform and may not order more than 200 hours of service.

(d) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising

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

4 (1) was performed pursuant to court order; and
5 (2) was not intentional, wilfully or wantonly
6 negligent, or performed with conscious indifference or reckless
7 disregard for the safety of others.

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

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

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

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

21 (2) require an eligible defendant to discharge all or
22 part of those costs by performing community service under Article
23 45.049 or 45.0492; or

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

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

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

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

ADOPTED

MAY 21 2011

By: Reticia Vandyette

H.B. NO. 1964
Secretary of the Senate

Substitute the following for H.B. No. 1964:

By: [Signature]

C.S. H.B. No. 1964

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(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. A defendant may discharge an obligation to perform community service 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 perform community service under this article, the justice or judge shall specify the number of hours of service the defendant is required to perform and may not order more than 200 hours of service.

(d) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general

1 well-being of the community. A governmental entity or nonprofit
2 organization that accepts a defendant under this article to perform
3 community service must agree to supervise the defendant in the
4 performance of the defendant's work and report on the defendant's
5 work to the justice or judge who ordered the community service.

6 (e) A justice or judge may not order a defendant to perform
7 more than 16 hours of community service per week under this article
8 unless the justice or judge determines that requiring additional
9 hours of work does not cause a hardship on the defendant or the
10 defendant's family. For purposes of this subsection, "family" has
11 the meaning assigned by Section 71.003, Family Code.

12 (f) A sheriff, employee of a sheriff's department, county
13 commissioner, county employee, county judge, justice of the peace,
14 municipal court judge, or officer or employee of a political
15 subdivision other than a county is not liable for damages arising
16 from an act or failure to act in connection with community service
17 performed by a defendant under this article if the act or failure to
18 act:

19 (1) was performed pursuant to court order; and
20 (2) was not intentional, wilfully or wantonly
21 negligent, or performed with conscious indifference or reckless
22 disregard for the safety of others.

23 (g) A local juvenile probation department or a
24 court-related services office may provide the administrative and
25 other services necessary for supervision of a defendant required to
26 perform community service under this article.

27 SECTION 2. Article 45.051(a-1), Code of Criminal Procedure,

1 is amended to read as follows:

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

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

9 (2) require an eligible defendant to discharge all or
10 part of those costs by performing community service under Article
11 45.049 or 45.0492; or

12 (3) take any combination of actions authorized by
13 Subdivision (1) or (2).

14 SECTION 3. The changes in law made by this Act apply only to
15 an offense committed or conduct that occurs on or after the
16 effective date of this Act. An offense committed or conduct that
17 occurs before the effective date of this Act is governed by the law
18 in effect when the offense was committed or the conduct occurred,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense is committed or conduct occurs
21 before the effective date of this Act if any element of the offense
22 or conduct occurs before the effective date.

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

ADOPTED

MAY 21 2011

FLOOR AMENDMENT NO. 1

BY:

Aditya D. Paul
Secretary of the Senate

Patricia VandePutte

1 Amend C.S.H.B. No. 1964 (Senate committee printing) by
2 adding the following appropriately numbered SECTION to the bill
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ Article 45.057(b), Code of Criminal
5 Procedure, is amended to read as follows:

6 (b) On a finding by a justice or municipal court that a
7 child committed an offense that the court has jurisdiction of
8 under Article 4.11 or 4.14, the court has jurisdiction to enter
9 an order:

10 (1) referring the child or the child's parent for
11 services under Section 264.302, Family Code;

12 (2) requiring that the child attend a special program
13 that the court determines to be in the best interest of the
14 child and, if the program involves the expenditure of municipal
15 or county funds, that is approved by the governing body of the
16 municipality or county commissioners court, as applicable,
17 including a rehabilitation, counseling, self-esteem and
18 leadership, work and job skills training, job interviewing and
19 work preparation, self-improvement, parenting, manners, violence
20 avoidance, tutoring, sensitivity training, parental
21 responsibility, community service, restitution, advocacy, or
22 mentoring program; or

23 (3) requiring that the child's parent do any act or
24 refrain from doing any act that the court determines will
25 increase the likelihood that the child will comply with the
26 orders of the court and that is reasonable and necessary for the
27 welfare of the child, including:

28 (A) attend a parenting class or parental
29 responsibility program; and

1 (B) attend the child's school classes or
2 functions.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 21, 2011

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

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

IN RE: HB1964 by Villarreal (Relating to discharging fines and costs assessed against certain juvenile defendants through community service.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to authorize a justice or a judge to dismiss all or part of a defendant's fines or costs for a Class C misdemeanor through community service if the defendant is younger than 17 years of age. A justice or judge could not order more than 200 hours of community service, and may order a defendant to perform community service under Article 45.0492 only for a governmental entity or a nonprofit organization for a maximum of 16 hours per week. A defendant would be allowed to pay the fine and costs assessed at any time to discharge the community service obligation. A Class C offense is punishable by a fine of not more than \$500.

The bill would remove the liability for specified persons relating to damages arising from an act or failure to act in connection with community service performed by a defendant under this article under certain conditions defined by the provisions of the bill.

A local probation department or a court-related services office could provide administrative and other services necessary for the supervision of a defendant ordered to perform community service.

A justice or municipal court that has jurisdiction that finds that a child committed an offense could enter an order requiring the child to attend a special program approved by the governing body of the municipality or county if the program involves the expenditure of municipal or county funds.

The bill would take effect September 1, 2011.

Local Government Impact

There could be a loss of revenue if a judge ordered a defendant, younger than 17 years of age, to perform community service and dismissed all or part of the fines or costs assessed, but the amount would vary depending on the number of offenses committed by applicable defendants and whether a judge dismissed the fines or costs. It is assumed that a judge or justice would dismiss the fines and costs only if there would not be a negative fiscal impact.

The Nacogdoches Municipal Court reported there would be no fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, TP, MWU, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 13, 2011

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

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

IN RE: HB1964 by Villarreal (Relating to discharging fines and costs assessed against certain juvenile defendants through community service.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to authorize a justice or a judge to dismiss all or part of a defendant's fines or costs for a Class C misdemeanor through community service if the defendant is younger than 17 years of age. A justice or judge could not order more than 200 hours of community service, and may order a defendant to perform community service under Article 45.0492 only for a governmental entity or a nonprofit organization for a maximum of 16 hours per week. A defendant would be allowed to pay the fine and costs assessed at any time to discharge the community service obligation. A Class C offense is punishable by a fine of not more than \$500.

The bill would remove the liability for specified persons relating to damages arising from an act or failure to act in connection with community service performed by a defendant under this article under certain conditions defined by the provisions of the bill.

A local probation department or a court-related services office could provide administrative and other services necessary for the supervision of a defendant ordered to perform community service.

The bill would take effect September 1, 2011.

Local Government Impact

There could be a loss of revenue if a judge ordered a defendant, younger than 17 years of age, to perform community service and dismissed all or part of the fines or costs assessed, but the amount would vary depending on the number of offenses committed by applicable defendants and whether a judge dismissed the fines or costs. It is assumed that a judge or justice would dismiss the fines and costs only if there would not be a negative fiscal impact.

The Nacogdoches Municipal Court reported there would be no fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, TP, MWU, AI

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: HB1964 by Villarreal (Relating to discharging fines and costs assessed against certain juvenile defendants through community service.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to authorize a justice or a judge to dismiss all or part of a defendant's fines or costs for a Class C misdemeanor through community service if the defendant is younger than 17 years of age. A justice or judge could not order more than 200 hours of community service. A defendant would be allowed to pay the fine and costs assessed at any time to discharge the community service obligation. A Class C offense is punishable by a fine of not more than \$500.

The bill would remove the liability for specified persons relating to damages arising from an act or failure to act in connection with community service performed by a defendant under this article under certain conditions defined by the provisions of the bill.

A community supervision and corrections department (CSCD) or a court-related services office would be authorized to provide administrative and other services necessary for the supervision of a defendant ordered to perform community service.

The bill would take effect September 1, 2011.

Local Government Impact

There could be a loss of revenue if a judge ordered a defendant, younger than 17 years of age, to perform community service and dismissed all or part of the fines or costs assessed, but the amount would vary depending on the number of offenses committed by applicable defendants and whether a judge dismissed the fines or costs. It is assumed that a judge or justice would dismiss the fines and costs only if there would not be a negative fiscal impact.

The Nacogdoches Municipal Court reported there would be no fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, TP, MWU, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 22, 2011

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

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

IN RE: HB1964 by Villarreal (Relating to discharging fines and costs assessed against certain juvenile defendants through community service.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to authorize a justice or a judge to dismiss all or part of a defendant's fines or costs for a Class C misdemeanor through community service if the defendant is younger than 17 years of age. A justice or judge could not order more than 200 hours of community service. A defendant would be allowed to pay the fine and costs assessed at any time to discharge the community service obligation. A Class C offense is punishable by a fine of not more than \$500.

The bill would remove the liability for specified persons relating to damages arising from an act or failure to act in connection with community service performed by a defendant under this article under certain conditions defined by the provisions of the bill.

A community supervision and corrections department (CSCD) or a court-related services office would be authorized to provide administrative and other services necessary for the supervision of a defendant ordered to perform community service.

The bill would take effect September 1, 2011.

Local Government Impact

There could be a loss of revenue if a judge ordered a defendant, younger than 17 years of age, to perform community service and dismissed all or part of the fines or costs assessed, but the amount would vary depending on the number of offenses committed by applicable defendants and whether a judge dismissed the fines or costs. It is assumed that a judge or justice would dismiss the fines and costs only if there would not be a negative fiscal impact.

The Nacogdoches Municipal Court reported there would be no fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 665 Juvenile Probation Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, TP, MWU, AI