

## **BILL ANALYSIS**

Senate Research Center

S.B. 395  
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Jurisprudence  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Prior to the 83rd Legislature, the Texas Judicial Council, which is the policy making body for the Texas judiciary, convened a workgroup of stakeholders to review juvenile justice issues. This review resulted in several legislative proposals, including the statutory proposals contained in S.B. 395.

Juvenile offenders in Texas can potentially be impacted by two different court structures. These include juvenile courts, which have jurisdiction over certain Penal Code violations, and municipal and justice courts, which have jurisdiction over fine-only misdemeanors. An imbalance is created due to the fact that fines are not typically charged within the juvenile court system, but are a staple in the lesser offenses that fall under the jurisdiction of municipal and justice courts. Complicating the issue even more is the fact that those juveniles, who are convicted of fine-only offenses but unable to pay, face the potential for jail-time once they reach the age of maturity.

S.B. 395 seeks to balance the imposition of fines and court costs for juveniles while still balancing youth accountability. The bill gives judges in fine-only offenses the discretion to waive payment of fines and court costs for children in the same manner as is currently done for indigent defendants and will allow juvenile defendants to choose to elect to pay fines and court costs or dispense of them through performing community service or receiving tutoring.

S.B. 395 amends current law relating to fines and court costs imposed on a child in a criminal case.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 42.15, Code of Criminal Procedure, by amending Subsection (b) and adding Subsections (d), (e), and (f), as follows:

(b) Authorizes a court, subject to Subsections (c) (relating to requiring the court to allow the defendant to pay the fine and costs in specified portions and intervals under certain circumstances) and (d), rather than Subsection (c), to direct a defendant's amount and schedule of payment when imposing fines and costs.

(d) Authorizes a judge to allow a defendant who is a child, as defined by Article 45.058(h) (defining "child"), to elect at the time of conviction, as defined by Section 133.101 (Meaning of Conviction), Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492 (Community Service or Tutoring in Satisfaction of Fine or Costs for Certain Juvenile Defendants), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(e) Requires that the election under Subsection (d) be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. Requires the court to maintain the written election as a record of the court and provide a copy to the defendant.

(f) Provides that the requirement under Article 45.0492(a) (relating to providing that this article applies only to certain defendants), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur 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 does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (d)(1).

SECTION 2. Amends Article 43.091, Code of Criminal Procedure, as follows:

Art. 43.091. New heading: WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. Authorizes a court to waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h) and each alternative method of discharging the fine or cost under Article 43.09 (Fine Discharged) or 42.15 would impose an undue hardship on the defendant.

SECTION 3. Amends Article 45.041, Code of Criminal Procedure, by amending Subsection (b) and adding Subsections (b-3), (b-4), and (b-5), as follows:

(b) Authorizes the justice or judge, subject to Subsections (b-2) (relating to requiring the justice or judge, if the justice or judge determines an inability to immediately pay the fine and costs, to allow the defendant to pay the fine and costs in specified portions at designated intervals) and (b-3), rather than subject to Subsection (b-2), to direct the defendant's amount and schedule of payment along with satisfying other certain conditions.

(b-3) Authorizes a judge to allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(b-4) Requires that the election under Subsection (b-3) be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. Requires the court to maintain the written election as a record of the court and provide a copy to the defendant.

(b-5) Provides that the requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur 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 does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (b-3)(1).

SECTION 4. Amends Article 45.0491, Code of Criminal Procedure, as follows:

Art. 45.0491. New heading: WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. Authorizes a municipal court,

regardless of whether the court is a court of record, or a justice court to waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h) and discharging the fine and costs under Article 45.049 (Community Service in Satisfaction of Fine or Costs) or as otherwise authorized by this chapter (Justice and Municipal Courts) would impose an undue hardship on the defendant.

SECTION 5. (a) Provides that Articles 42.15 and 45.041, Code of Criminal Procedure, as amended by this Act, apply only to a sentencing proceeding that commences on or after the effective date of this Act.

(b) Provides that Articles 43.091 and 45.0491, Code of Criminal Procedure, as amended by this Act, apply to a sentencing proceeding that commences before, on, or after the effective date of this Act.

SECTION 6. Effective date: September 1, 2013.