

BILL ANALYSIS

Senate Research Center
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S.B. 395
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Jurisprudence
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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 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 community service.

As proposed, 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) and (e), as follows:

(b) Authorizes a court, subject to Subsections (c) and (d), rather than Subsection (c), to direct a defendant's amount and schedule of payment when imposing fines and costs.

(d) Requires the court, when imposing a fine and costs on a defendant who is a child, as defined by Article 45.058(h) (defining "child"), to allow the defendant to choose to discharge the fine and costs by performing community service under Article 43.09(h) (authorizing a court to order a defendant to perform community service) or paying the fine and costs in a manner described by Subsection (b).

(e) Requires that the defendant's choice 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 enter the choice in the record and provide a copy to the defendant.

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 is 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 (Fines and Costs) 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) and (b-4), 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) Requires the court, when imposing a fine and costs on a defendant who is a child, as defined by Article 45.058(h), to allow the defendant to choose to discharge the fine and costs by performing community service under Article 43.09(h) or paying the fine and costs in a manner described by Subsection (b).

(b-4) Requires that the defendant's choice 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 enter the choice in the record and provide a copy to the defendant.

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 is a child as defined by Article 45.058(h) and the fines and costs under Article 45.049 (Community Service in Satisfaction of Fine or Costs) would impose an undue hardship on the defendant.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2013.