

By: West
(Herrero)

S.B. No. 395

A BILL TO BE ENTITLED

AN ACT

relating to fines and court costs imposed on a child in a criminal case.

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

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

(b) Subject to Subsections [~~Subsection~~] (c) and (d), when imposing a fine and costs, a court may direct a defendant:

(1) to pay the entire fine and costs when sentence is pronounced;

(2) to pay the entire fine and costs at some later date; or

(3) to pay a specified portion of the fine and costs at designated intervals.

(d) A judge may 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).

1 (e) The election under Subsection (d) must be made in
2 writing, signed by the defendant, and, if present, signed by the
3 defendant's parent, guardian, or managing conservator. The court
4 shall maintain the written election as a record of the court and
5 provide a copy to the defendant.

6 (f) The requirement under Article 45.0492(a), as added by
7 Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular
8 Session, 2011, that an offense occur in a building or on the grounds
9 of the primary or secondary school at which the defendant was
10 enrolled at the time of the offense does not apply to the
11 performance of community service or the receipt of tutoring to
12 discharge a fine or costs under Subsection (d)(1).

13 SECTION 2. Article 43.091, Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
16 INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a
17 fine or cost imposed on a defendant who defaults in payment if the
18 court determines that:

19 (1) the defendant is indigent or was, at the time the
20 offense was committed, a child as defined by Article 45.058(h); and

21 (2) each alternative method of discharging the fine or
22 cost under Article 43.09 or 42.15 would impose an undue hardship on
23 the defendant.

24 SECTION 3. Article 45.041, Code of Criminal Procedure, is
25 amended by amending Subsection (b) and adding Subsections (b-3),
26 (b-4), and (b-5) to read as follows:

27 (b) Subject to Subsections [~~Subsection~~] (b-2) and (b-3),

1 the justice or judge may direct the defendant:

2 (1) to pay:

3 (A) the entire fine and costs when sentence is
4 pronounced;

5 (B) the entire fine and costs at some later date;
6 or

7 (C) a specified portion of the fine and costs at
8 designated intervals;

9 (2) if applicable, to make restitution to any victim
10 of the offense; and

11 (3) to satisfy any other sanction authorized by law.

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

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

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

21 (b-4) The election under Subsection (b-3) must be made in
22 writing, signed by the defendant, and, if present, signed by the
23 defendant's parent, guardian, or managing conservator. The court
24 shall maintain the written election as a record of the court and
25 provide a copy to the defendant.

26 (b-5) The requirement under Article 45.0492(a), as added by
27 Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular

1 Session, 2011, that an offense occur in a building or on the grounds
2 of the primary or secondary school at which the defendant was
3 enrolled at the time of the offense does not apply to the
4 performance of community service or the receipt of tutoring to
5 discharge a fine or costs under Subsection (b-3)(1).

6 SECTION 4. Article 45.0491, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
9 INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless of
10 whether the court is a court of record, or a justice court may waive
11 payment of a fine or costs imposed on a defendant who defaults in
12 payment if the court determines that:

13 (1) the defendant is indigent or was, at the time the
14 offense was committed, a child as defined by Article 45.058(h); and

15 (2) discharging the fine and costs under Article
16 45.049 or as otherwise authorized by this chapter would impose an
17 undue hardship on the defendant.

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

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

25 SECTION 6. This Act takes effect September 1, 2013.