

1-1 By: West S.B. No. 395
 1-2 (In the Senate - Filed February 5, 2013; February 13, 2013,
 1-3 read first time and referred to Committee on Jurisprudence;
 1-4 March 18, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; March 18, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 395 By: West

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to fines and court costs imposed on a child in a criminal
 1-20 case.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Article 42.15, Code of Criminal Procedure, is
 1-23 amended by amending Subsection (b) and adding Subsections (d), (e),
 1-24 and (f) to read as follows:

1-25 (b) Subject to Subsections [Subsection] (c) and (d), when
 1-26 imposing a fine and costs, a court may direct a defendant:

1-27 (1) to pay the entire fine and costs when sentence is
 1-28 pronounced;

1-29 (2) to pay the entire fine and costs at some later
 1-30 date; or

1-31 (3) to pay a specified portion of the fine and costs at
 1-32 designated intervals.

1-33 (d) A judge may allow a defendant who is a child, as defined
 1-34 by Article 45.058(h), to elect at the time of conviction, as defined
 1-35 by Section 133.101, Local Government Code, to discharge the fine
 1-36 and costs by:

1-37 (1) performing community service or receiving
 1-38 tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350),
 1-39 Acts of the 82nd Legislature, Regular Session, 2011; or

1-40 (2) paying the fine and costs in a manner described by
 1-41 Subsection (b).

1-42 (e) The election under Subsection (d) must be made in
 1-43 writing, signed by the defendant, and, if present, signed by the
 1-44 defendant's parent, guardian, or managing conservator. The court
 1-45 shall maintain the written election as a record of the court and
 1-46 provide a copy to the defendant.

1-47 (f) The requirement under Article 45.0492(a), as added by
 1-48 Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular
 1-49 Session, 2011, that an offense occur in a building or on the grounds
 1-50 of the primary or secondary school at which the defendant was
 1-51 enrolled at the time of the offense does not apply to the
 1-52 performance of community service or the receipt of tutoring to
 1-53 discharge a fine or costs under Subsection (d)(1).

1-54 SECTION 2. Article 43.091, Code of Criminal Procedure, is
 1-55 amended to read as follows:

1-56 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
 1-57 INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a
 1-58 fine or cost imposed on a defendant who defaults in payment if the
 1-59 court determines that:

1-60 (1) the defendant is indigent or was, at the time the

2-1 offense was committed, a child as defined by Article 45.058(h); and
2-2 (2) each alternative method of discharging the fine or
2-3 cost under Article 43.09 or 42.15 would impose an undue hardship on
2-4 the defendant.

2-5 SECTION 3. Article 45.041, Code of Criminal Procedure, is
2-6 amended by amending Subsection (b) and adding Subsections (b-3),
2-7 (b-4), and (b-5) to read as follows:

2-8 (b) Subject to Subsections [Subsection] (b-2) and (b-3),
2-9 the justice or judge may direct the defendant:

2-10 (1) to pay:

2-11 (A) the entire fine and costs when sentence is
2-12 pronounced;

2-13 (B) the entire fine and costs at some later date;

2-14 or

2-15 (C) a specified portion of the fine and costs at
2-16 designated intervals;

2-17 (2) if applicable, to make restitution to any victim
2-18 of the offense; and

2-19 (3) to satisfy any other sanction authorized by law.

2-20 (b-3) A judge may allow a defendant who is a child, as
2-21 defined by Article 45.058(h), to elect at the time of conviction, as
2-22 defined by Section 133.101, Local Government Code, to discharge the
2-23 fine and costs by:

2-24 (1) performing community service or receiving
2-25 tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350),
2-26 Acts of the 82nd Legislature, Regular Session, 2011; or

2-27 (2) paying the fine and costs in a manner described by
2-28 Subsection (b).

2-29 (b-4) The election under Subsection (b-3) must be made in
2-30 writing, signed by the defendant, and, if present, signed by the
2-31 defendant's parent, guardian, or managing conservator. The court
2-32 shall maintain the written election as a record of the court and
2-33 provide a copy to the defendant.

2-34 (b-5) The requirement under Article 45.0492(a), as added by
2-35 Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular
2-36 Session, 2011, that an offense occur in a building or on the grounds
2-37 of the primary or secondary school at which the defendant was
2-38 enrolled at the time of the offense does not apply to the
2-39 performance of community service or the receipt of tutoring to
2-40 discharge a fine or costs under Subsection (b-3)(1).

2-41 SECTION 4. Article 45.0491, Code of Criminal Procedure, is
2-42 amended to read as follows:

2-43 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
2-44 INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless of
2-45 whether the court is a court of record, or a justice court may waive
2-46 payment of a fine or costs imposed on a defendant who defaults in
2-47 payment if the court determines that:

2-48 (1) the defendant is indigent or was, at the time the
2-49 offense was committed, a child as defined by Article 45.058(h); and

2-50 (2) discharging the fine and costs under Article
2-51 45.049 or as otherwise authorized by this chapter would impose an
2-52 undue hardship on the defendant.

2-53 SECTION 5. (a) Articles 42.15 and 45.041, Code of Criminal
2-54 Procedure, as amended by this Act, apply only to a sentencing
2-55 proceeding that commences on or after the effective date of this
2-56 Act.

2-57 (b) Articles 43.091 and 45.0491, Code of Criminal
2-58 Procedure, as amended by this Act, apply to a sentencing proceeding
2-59 that commences before, on, or after the effective date of this Act.

2-60 SECTION 6. This Act takes effect September 1, 2013.

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