

BILL ANALYSIS

C.S.H.B. 121
By: Fletcher
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that the amount of uncollected payments related to *capias pro fines* is too high, and the parties assert that an alternative mechanism for collecting such payments will result in more revenue for counties and municipalities. In addition, the parties contend that the option of making such a payment at the time of arrest could avoid contributing to already crowded jails, save time for arresting officers, and relieve minor offenders suddenly informed of an uncollected payment when pulled over for a routine moving violation from the burden of dealing with an impounded vehicle and the potential inconvenience of finding someone to supervise a child because of an unexpected arrest. C.S.H.B. 121 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 121 amends the Code of Criminal Procedure to authorize a court to adopt an alternative procedure for collecting a defendant's past due payment on a judgment for a fine and related court costs if a *capias pro fine* has been issued in the case. The bill requires, under the alternative procedure, a peace officer who executes a *capias pro fine* or who is authorized to arrest a defendant on other grounds and who knows that the defendant owes such a past due payment to inform the defendant of the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card and of the defendant's available alternatives to making an immediate payment. The bill authorizes the peace officer, on behalf of the court, to accept the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer is authorized to release the defendant as appropriate based on the officer's authority for the arrest. The bill authorizes a peace officer accepting such an immediate payment to also accept payment for fees for the issuance and execution of the *capias pro fine*.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 121 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences

between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The heading to Chapter 103, Code of Criminal Procedure, is amended.

SECTION 2. Chapter 103, Code of Criminal Procedure, is amended by adding Article 103.0025 to read as follows:

Art. 103.0025. ALTERNATIVE PAYMENT PROCEDURE FOR CERTAIN FINES AND COSTS.

(a) This article applies only to payment of:
(1) a fine and court costs associated with the alleged commission of a Class C misdemeanor by a defendant; and
(2) a judgment for fines and court costs of a defendant convicted of any offense, if a capias pro fine has been issued in the case.

(b) Notwithstanding any other provision of law, the court may adopt an alternative procedure for collecting an outstanding payment described by Subsection (a). Under the procedure, a peace officer making an arrest of a defendant:

(1) shall inform the defendant of:
(A) the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card; and
(B) the defendant's available alternatives to making an immediate payment; and
(2) may accept, on behalf of the court, the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer must release the defendant.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Chapter 103, Code of Criminal Procedure, is amended by adding Article 103.0025 to read as follows:

Art. 103.0025. ALTERNATIVE PAYMENT PROCEDURE FOR CERTAIN PAST DUE FINES AND COSTS.

(a) This article applies to a defendant's past due payment on
a judgment for a fine and related court costs if a capias pro fine has been issued in the case.

(b) Notwithstanding any other provision of law, the court may adopt an alternative procedure for collecting a past due payment described by Subsection (a). Under the procedure, a peace officer who executes a capias pro fine or who is authorized to arrest a defendant on other grounds and knows that the defendant owes a past due payment described by Subsection (a):

(1) shall inform the defendant of:
(A) the possibility of making an immediate payment of the fine and related court costs by use of a credit or debit card; and
(B) the defendant's available alternatives to making an immediate payment; and
(2) may accept, on behalf of the court, the defendant's immediate payment of the fine and related court costs by use of a credit or debit card, after which the peace officer may release the defendant as appropriate based on the officer's authority for the arrest.

(c) A peace officer accepting a payment under Subsection (b)(2) may also accept payment for fees for the issuance and execution of the capias pro fine.

SECTION 3. Same as introduced version.

III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.