

BILL ANALYSIS

C.S.S.B. 873
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that a *capias pro fine* directs a peace officer to bring a defendant before a court for a hearing to determine whether the defendant had the ability to pay the fine for the misdemeanor or felony for which the defendant was convicted but chose not to pay. The parties also note that a *capias pro fine* authorizes a defendant to be placed in jail if the defendant cannot be brought before the court immediately, such as when the judge of the court is unavailable. These parties assert that this is an inefficient system that may cost a county money instead of producing revenue and may unfairly incarcerate those who have no ability to pay. C.S.S.B. 873 seeks to address this issue by revising certain provisions relating to *capias pro fines*.

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.S.B. 873 amends the Code of Criminal Procedure to authorize an arresting officer, if the court that issued a *capias pro fine* against a defendant is unavailable and in lieu of placing the defendant in jail, to take the defendant to the following courts:

- another court in the same county with jurisdiction over Class A and Class B misdemeanors or a county criminal law magistrate court in the same county, if the court that issued the *capias pro fine* was a county court or a statutory county court with Class A and Class B misdemeanor jurisdiction;
- another court in the same county with jurisdiction over felony cases or a county criminal law magistrate court in the same county, if the court that issued the *capias pro fine* was a district court with felony jurisdiction;
- a justice of the peace court or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located in the same county, if the court that issued the *capias pro fine* was a justice of the peace court; or
- a municipal court that is located in the same municipality, if the court that issued the *capias pro fine* was a municipal court.

C.S.S.B. 873 authorizes the following judicial officers to conduct a hearing regarding whether a defendant who defaults in the discharge of a judgment will be confined in jail if the court that issued the *capias pro fine* is unavailable: a justice of the peace or county criminal law magistrate

with jurisdiction over Class C misdemeanors who is located in the same county as the issuing court, if the issuing court was a justice of the peace court, or a municipal court judge who is located in the same municipality as the issuing court, if the issuing court was a municipal court.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 873 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Article 43.05(b), Code of Criminal Procedure, is amended to read as follows:

(b) A capias pro fine authorizes a peace officer to place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately. Instead of placing the defendant in jail as authorized by this subsection, the peace officer may bring the defendant before another court that is in the same territorial jurisdiction as, and that has concurrent jurisdiction with, the court that issued the capias pro fine.

SECTION 2. Article 45.045, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) Instead of placing the defendant in jail as authorized by Subsection (a), the peace officer may bring the defendant before another court that is in the same county as, and that has concurrent jurisdiction with, the court that issued the capias pro fine.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 43.05, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) If the court that issued the capias pro fine is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to:

(1) another court in the same county with jurisdiction over Class A and Class B misdemeanors or a county criminal law magistrate court in the same county, if the court that issued the capias pro fine was a county court or a statutory county court with Class A and Class B misdemeanor jurisdiction; or

(2) another court in the same county with jurisdiction over felony cases or a county criminal law magistrate court in the same county, if the court that issued the capias pro fine was a district court with felony jurisdiction.

SECTION 2. Article 45.045, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the court that issued the capias pro fine is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to:

(1) a justice of the peace court or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located in the same county, if the court that issued the capias pro fine was a justice

SECTION 3. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) For purposes of a hearing described by Subsection (a), if the defendant cannot be immediately brought before the court that entered the judgment and sentence against the defendant, another court that is in the same county as, and that has concurrent jurisdiction with, the court that entered the judgment and sentence may conduct the hearing.

SECTION 4. This Act takes effect September 1, 2015.

of the peace court; or

(2) a municipal court that is located in the same municipality, if the court that issued the capias pro fine was a municipal court.

SECTION 3. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) For purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, the following judicial officers may conduct the hearing:

(1) a justice of the peace or county criminal law magistrate with jurisdiction over Class C misdemeanors who is located in the same county as the issuing court, if the issuing court was a justice of the peace court; or

(2) a municipal court judge who is located in the same municipality as the issuing court, if the issuing court was a municipal court.

SECTION 4. Same as engrossed version.