

By: Canales

H.B. No. 351

A BILL TO BE ENTITLED

AN ACT

relating to the discharge or waiver of fines and costs imposed on indigent defendants.

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

SECTION 1. Article 42.15(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsections (c) and (d) and Article 43.09(f), 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.

SECTION 2. Article 43.09(f), Code of Criminal Procedure, is amended to read as follows:

(f) At sentencing or at any time after sentencing, a [A] court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

SECTION 3. Article 43.091, Code of Criminal Procedure, is amended to read as follows:

Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a

1 fine or cost imposed on a defendant [~~who defaults in payment~~] if the  
2 court determines that:

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

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

8 SECTION 4. Article 45.041, Code of Criminal Procedure, is  
9 amended by amending Subsection (b) and adding Subsection (b-2a) to  
10 read as follows:

11 (b) Subject to Subsections (b-2), (b-2a), and (b-3), the  
12 justice or judge may direct the defendant:

13 (1) to pay:

14 (A) the entire fine and costs when sentence is  
15 pronounced;

16 (B) the entire fine and costs at some later date;

17 or

18 (C) a specified portion of the fine and costs at  
19 designated intervals;

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

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

23 (b-2a) If in imposing a fine and costs the justice or judge  
24 determines that the defendant has insufficient resources or income  
25 to pay the fine or costs, the justice or judge may require the  
26 defendant to discharge all or part of the fine or costs by  
27 performing community service as provided by Article 45.049.

1 SECTION 5. Article 45.0491, Code of Criminal Procedure, is  
2 amended to read as follows:

3 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR  
4 INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless  
5 of whether the court is a court of record, or a justice court may  
6 waive payment of a fine or costs imposed on a defendant [~~who~~  
7 ~~defaults in payment~~] if the court determines that:

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

10 (2) discharging the fine and costs under Article  
11 45.049 or as otherwise authorized by this chapter would impose an  
12 undue hardship on the defendant.

13 SECTION 6. The changes in law made by this Act apply to a  
14 sentencing proceeding that commences before, on, or after the  
15 effective date of this Act.

16 SECTION 7. This Act takes effect September 1, 2017.