

1-1 By: Canales, et al. (Senate Sponsor - Hinojosa) H.B. No. 351
 1-2 (In the Senate - Received from the House March 27, 2017;
 1-3 April 12, 2017, read first time and referred to Committee on
 1-4 Criminal Justice; May 21, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
 1-6 May 22, 2017, 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	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 351 By: Whitmire

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the administrative, civil, and criminal consequences,
 1-22 including fines, fees, and costs, imposed on persons arrested for,
 1-23 charged with, or convicted of certain criminal offenses.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Article 14.06(b), Code of Criminal Procedure, is
 1-26 amended to read as follows:

1-27 (b) A peace officer who is charging a person, including a
 1-28 child, with committing an offense that is a Class C misdemeanor,
 1-29 other than an offense under Section 49.02, Penal Code, may, instead
 1-30 of taking the person before a magistrate, issue a citation to the
 1-31 person that contains:

1-32 (1) written notice of the time and place the person
 1-33 must appear before a magistrate;

1-34 (2) [] the name and address of the person charged;

1-35 (3) [] the offense charged;

1-36 (4) information regarding the alternatives to the full
 1-37 payment of any fine or costs assessed against the person, if the
 1-38 person is convicted of the offense and is unable to pay that
 1-39 amount; [] and

1-40 (5) the following admonishment, in boldfaced or
 1-41 underlined type or in capital letters:

1-42 "If you are convicted of a misdemeanor offense involving
 1-43 violence where you are or were a spouse, intimate partner, parent,
 1-44 or guardian of the victim or are or were involved in another,
 1-45 similar relationship with the victim, it may be unlawful for you to
 1-46 possess or purchase a firearm, including a handgun or long gun, or
 1-47 ammunition, pursuant to federal law under 18 U.S.C. Section
 1-48 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
 1-49 questions whether these laws make it illegal for you to possess or
 1-50 purchase a firearm, you should consult an attorney."

1-51 SECTION 2. Section 4(a), Article 17.42, Code of Criminal
 1-52 Procedure, is amended to read as follows:

1-53 (a) Except as otherwise provided by this subsection, if []
 1-54 a court releases an accused on personal bond on the recommendation
 1-55 of a personal bond office, the court shall assess a personal bond
 1-56 fee of \$20 or three percent of the amount of the bail fixed for the
 1-57 accused, whichever is greater. The court may waive the fee or
 1-58 assess a lesser fee if good cause is shown. A court that requires a
 1-59 defendant to give a personal bond under Article 45.016 may not
 1-60 assess a personal bond fee under this subsection.

2-1 SECTION 3. Article 27.14(b), Code of Criminal Procedure, is
 2-2 amended to read as follows:

2-3 (b) A defendant charged with a misdemeanor for which the
 2-4 maximum possible punishment is by fine only may, in lieu of the
 2-5 method provided in Subsection (a) [~~of this article~~], mail or
 2-6 deliver in person to the court a plea of "guilty" or a plea of "nolo
 2-7 contendere" and a waiver of jury trial. The defendant may also
 2-8 request in writing that the court notify the defendant, at the
 2-9 address stated in the request, of the amount of an appeal bond that
 2-10 the court will approve. If the court receives a plea and waiver
 2-11 before the time the defendant is scheduled to appear in court, the
 2-12 court shall dispose of the case without requiring a court
 2-13 appearance by the defendant. If the court receives a plea and
 2-14 waiver after the time the defendant is scheduled to appear in court
 2-15 but at least five business days before a scheduled trial date, the
 2-16 court shall dispose of the case without requiring a court
 2-17 appearance by the defendant. The court shall notify the defendant
 2-18 either in person or by regular [~~certified~~] mail[, ~~return receipt~~
 2-19 ~~requested,~~] of the amount of any fine or costs assessed in the case,
 2-20 information regarding the alternatives to the full payment of any
 2-21 fine or costs assessed against the defendant, if the defendant is
 2-22 unable to pay that amount, and, if requested by the defendant, the
 2-23 amount of an appeal bond that the court will approve. Except as
 2-24 otherwise provided by this code, the [~~The~~] defendant shall pay any
 2-25 fine or costs assessed or give an appeal bond in the amount stated
 2-26 in the notice before the 31st day after receiving the notice.

2-27 SECTION 4. Article 42.15, Code of Criminal Procedure, is
 2-28 amended by adding Subsection (a-1) and amending Subsection (b) to
 2-29 read as follows:

2-30 (a-1) Notwithstanding any other provision of this article,
 2-31 immediately after imposing a sentence in a case in which the
 2-32 defendant entered a plea in open court as provided by Article 27.13,
 2-33 27.14(a), or 27.16(a), a court shall inquire whether the defendant
 2-34 has sufficient resources or income to immediately pay all or part of
 2-35 the fine and costs. If the court determines that the defendant does
 2-36 not have sufficient resources or income to immediately pay all or
 2-37 part of the fine and costs, the court shall determine whether the
 2-38 fine and costs should be:

2-39 (1) required to be paid at some later date or in a
 2-40 specified portion at designated intervals;

2-41 (2) discharged by performing community service under,
 2-42 as applicable, Article 43.09(f), Article 45.049, Article 45.0492,
 2-43 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
 2-44 Regular Session, 2011, or Article 45.0492, as added by Chapter 777
 2-45 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;

2-46 (3) waived in full or in part under Article 43.091 or
 2-47 45.0491; or

2-48 (4) satisfied through any combination of methods under
 2-49 Subdivisions (1)-(3).

2-50 (b) Subject to Subsections (c) and (d) and Article 43.091,
 2-51 when imposing a fine and costs, a court may direct a defendant:

2-52 (1) to pay the entire fine and costs when sentence is
 2-53 pronounced;

2-54 (2) to pay the entire fine and costs at some later
 2-55 date; or

2-56 (3) to pay a specified portion of the fine and costs at
 2-57 designated intervals.

2-58 SECTION 5. Article 43.05, Code of Criminal Procedure, is
 2-59 amended by adding Subsections (a-1) and (a-2) to read as follows:

2-60 (a-1) Before a court may issue a capias pro fine for the
 2-61 defendant's failure to satisfy the judgment according to its terms:

2-62 (1) the court must provide by regular mail to the
 2-63 defendant notice that includes:

2-64 (A) a statement that the defendant has failed to
 2-65 satisfy the judgment according to its terms; and

2-66 (B) a date and time when the court will hold a
 2-67 hearing on the defendant's failure to satisfy the judgment
 2-68 according to its terms; and

2-69 (2) either:

3-1 (A) the defendant fails to appear at the hearing;
 3-2 or
 3-3 (B) based on evidence presented at the hearing,
 3-4 the court determines that the capias pro fine should be issued.
 3-5 (a-2) The court shall recall a capias pro fine if, before
 3-6 the capias pro fine is executed:
 3-7 (1) the defendant voluntarily appears to resolve the
 3-8 amount owed; and
 3-9 (2) the amount owed is resolved in any manner
 3-10 authorized by this code.
 3-11 SECTION 6. Article 43.09, Code of Criminal Procedure, is
 3-12 amended by amending Subsections (a), (g), (h), (j), and (l) and
 3-13 adding Subsection (h-1) to read as follows:
 3-14 (a) When a defendant is convicted of a misdemeanor and the
 3-15 defendant's [his] punishment is assessed at a pecuniary fine or is
 3-16 confined in a jail after conviction of a felony for which a fine is
 3-17 imposed, if the defendant [he] is unable to pay the fine and costs
 3-18 adjudged against the defendant [him], the defendant [he] may for
 3-19 such time as will satisfy the judgment be put to work in the county
 3-20 jail industries program, in the workhouse, or on the county farm, or
 3-21 public improvements and maintenance projects of the county or a
 3-22 political subdivision located in whole or in part in the county, as
 3-23 provided in Article 43.10 [the succeeding article]; or if there is
 3-24 [be] no such county jail industries program, workhouse, farm, or
 3-25 improvements and maintenance projects, the defendant [he] shall be
 3-26 confined in jail for a sufficient length of time to discharge the
 3-27 full amount of fine and costs adjudged against the defendant [him];
 3-28 rating such confinement at \$100 [~~\$50~~] for each day and rating such
 3-29 labor at \$100 [~~\$50~~] for each day; provided, however, that the
 3-30 defendant may pay the pecuniary fine assessed against the defendant
 3-31 [him] at any time while the defendant [he] is serving at work in the
 3-32 county jail industries program, in the workhouse, or on the county
 3-33 farm, or on the public improvements and maintenance projects of the
 3-34 county or a political subdivision located in whole or in part in the
 3-35 county, or while the defendant [he] is serving the defendant's
 3-36 [his] jail sentence, and in such instances the defendant is [he
 3-37 shall be] entitled to the credit [he has] earned under this
 3-38 subsection during the time that the defendant [he] has served and
 3-39 the defendant [he] shall only be required to pay the [his] balance
 3-40 of the pecuniary fine assessed against the defendant [him]. A
 3-41 defendant who performs labor under this article during a day in
 3-42 which the defendant [he] is confined is entitled to both the credit
 3-43 for confinement and the credit for labor provided by this article.
 3-44 (g) In the court's [its] order requiring a defendant to
 3-45 perform [participate in] community service [work] under Subsection
 3-46 (f) [of this article], the court must specify:
 3-47 (1) the number of hours of community service the
 3-48 defendant is required to perform [work]; [and]
 3-49 (2) whether the community supervision and corrections
 3-50 department or a court-related services office will perform the
 3-51 administrative duties required by the placement of the defendant in
 3-52 the community service program; and
 3-53 (3) the date by which the defendant must submit to the
 3-54 court documentation verifying the defendant's completion of the
 3-55 community service.
 3-56 (h) The court may order the defendant to perform community
 3-57 service [work] under Subsection (f):
 3-58 (1) by attending:
 3-59 (A) a work and job skills training program;
 3-60 (B) a preparatory class for the high school
 3-61 equivalency examination administered under Section 7.111,
 3-62 Education Code;
 3-63 (C) an alcohol or drug abuse program;
 3-64 (D) a rehabilitation program;
 3-65 (E) a counseling program, including a
 3-66 self-improvement program;
 3-67 (F) a mentoring program; or
 3-68 (G) any similar activity; or
 3-69 (2) [of this article only] for:

4-1 (A) a governmental entity;
 4-2 (B) ~~or~~ a nonprofit organization or another
 4-3 organization that provides services to the general public that
 4-4 enhance social welfare and the general well-being of the community,
 4-5 as determined by the court; or

4-6 (C) an educational institution.
 4-7 (h-1) An ~~[A governmental]~~ entity ~~[or nonprofit]~~
 4-8 ~~organization~~ that accepts a defendant under Subsection (f) ~~[of~~
 4-9 ~~this article]~~ to perform community service must agree to supervise,
 4-10 either on-site or remotely, the defendant in the performance of the
 4-11 defendant's community service ~~[work]~~ and report on the defendant's
 4-12 community service ~~[work]~~ to the district probation department or
 4-13 court-related services office.

4-14 (j) A court may not order a defendant to perform more than 16
 4-15 hours per week of community service under Subsection (f) ~~[of this~~
 4-16 ~~article]~~ unless the court determines that requiring the defendant
 4-17 to perform ~~[work]~~ additional hours does not impose an undue ~~[work a]~~
 4-18 hardship on the defendant or the defendant's dependents.

4-19 (1) A sheriff, employee of a sheriff's department, county
 4-20 commissioner, county employee, county judge, an employee of a
 4-21 community corrections and supervision department, restitution
 4-22 center, or officer or employee of a political subdivision other
 4-23 than a county or an entity that accepts a defendant under this
 4-24 article to perform community service is not liable for damages
 4-25 arising from an act or failure to act in connection with manual
 4-26 labor performed by an inmate or community service performed by a
 4-27 defendant under ~~[pursuant to]~~ this article if the act or failure to
 4-28 act:

4-29 (1) was performed pursuant to confinement or other
 4-30 court order; and

4-31 (2) was not intentional, wilfully or wantonly
 4-32 negligent, or performed with conscious indifference or reckless
 4-33 disregard for the safety of others.

4-34 SECTION 7. Article 43.091, Code of Criminal Procedure, is
 4-35 amended to read as follows:

4-36 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
 4-37 CERTAIN ~~[INDIGENT]~~ DEFENDANTS AND FOR CHILDREN. A court may waive
 4-38 payment of all or part of a fine or costs ~~[cost]~~ imposed on a
 4-39 defendant ~~[who defaults in payment]~~ if the court determines that:

4-40 (1) the defendant is indigent or does not have
 4-41 sufficient resources or income to pay all or part of the fine or
 4-42 costs or was, at the time the offense was committed, a child as
 4-43 defined by Article 45.058(h); and

4-44 (2) each alternative method of discharging the fine or
 4-45 cost under Article 43.09 or 42.15 would impose an undue hardship on
 4-46 the defendant.

4-47 SECTION 8. Article 45.014, Code of Criminal Procedure, is
 4-48 amended by adding Subsections (e), (f), and (g) to read as follows:

4-49 (e) A justice or judge may not issue an arrest warrant for
 4-50 the defendant's failure to appear, including failure to appear as
 4-51 required by a citation issued under Article 14.06(b), unless:

4-52 (1) the justice or judge provides by telephone or
 4-53 regular mail to the defendant notice that includes:

4-54 (A) a date and time when the defendant must
 4-55 appear before the justice or judge;

4-56 (B) the name and address of the court with
 4-57 jurisdiction in the case;

4-58 (C) information regarding alternatives to the
 4-59 full payment of any fine or costs owed by the defendant, if the
 4-60 defendant is unable to pay that amount; and

4-61 (D) an explanation of the consequences if the
 4-62 defendant fails to appear before the justice or judge as required by
 4-63 this article; and

4-64 (2) the defendant fails to appear before the justice
 4-65 or judge as required by this article.

4-66 (f) A defendant who receives notice under Subsection (e) may
 4-67 request an alternative date or time to appear before the justice or
 4-68 judge if the defendant is unable to appear on the date and time
 4-69 included in the notice.

5-1 (g) A justice or judge shall recall an arrest warrant for
 5-2 the defendant's failure to appear if, before the arrest warrant is
 5-3 executed:

5-4 (1) the defendant voluntarily appears to resolve the
 5-5 arrest warrant; and

5-6 (2) the arrest warrant is resolved in any manner
 5-7 authorized by this code.

5-8 SECTION 9. Article 45.016, Code of Criminal Procedure, is
 5-9 amended to read as follows:

5-10 Art. 45.016. PERSONAL BOND; BAIL BOND. (a) The justice or
 5-11 judge may require the defendant to give a personal bond [bail] to
 5-12 secure the defendant's appearance in accordance with this code.

5-13 (b) The justice or judge may not, either instead of or in
 5-14 addition to the personal bond, require a defendant to give a bail
 5-15 bond unless:

5-16 (1) the defendant fails to appear in accordance with
 5-17 this code with respect to the applicable offense; and

5-18 (2) the justice or judge determines that:

5-19 (A) the defendant has sufficient resources or
 5-20 income to give a bail bond; and

5-21 (B) a bail bond is necessary to secure the
 5-22 defendant's appearance in accordance with this code.

5-23 (c) If a defendant required to give a bail bond under
 5-24 Subsection (b) remains in custody, without giving the bond, for
 5-25 more than 48 hours after the issuance of the applicable order, the
 5-26 justice or judge shall reconsider the requirement for the defendant
 5-27 to give the bond.

5-28 (d) If the defendant refuses to give a personal bond or,
 5-29 except as provided by Subsection (c), refuses or otherwise fails to
 5-30 give a bail bond, the defendant may be held in custody.

5-31 SECTION 10. Article 45.041, Code of Criminal Procedure, is
 5-32 amended by adding Subsection (a-1) and amending Subsection (b) to
 5-33 read as follows:

5-34 (a-1) Notwithstanding any other provision of this article,
 5-35 immediately after imposing a sentence in a case in which the
 5-36 defendant entered a plea in open court as provided by Article
 5-37 27.14(a) or 27.16(a), the justice or judge shall inquire whether
 5-38 the defendant has sufficient resources or income to immediately pay
 5-39 all or part of the fine and costs. If the justice or judge
 5-40 determines that the defendant does not have sufficient resources or
 5-41 income to immediately pay all or part of the fine and costs, the
 5-42 justice or judge shall determine whether the fine and costs should
 5-43 be:

5-44 (1) required to be paid at some later date or in a
 5-45 specified portion at designated intervals;

5-46 (2) discharged by performing community service under,
 5-47 as applicable, Article 45.049, Article 45.0492, as added by Chapter
 5-48 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session,
 5-49 2011, or Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts
 5-50 of the 82nd Legislature, Regular Session, 2011;

5-51 (3) waived in full or in part under Article 45.0491; or

5-52 (4) satisfied through any combination of methods under
 5-53 Subdivisions (1)-(3).

5-54 (b) Subject to Subsections (b-2) and (b-3) and Article
 5-55 45.0491, the justice or judge may direct the defendant:

5-56 (1) to pay:

5-57 (A) the entire fine and costs when sentence is
 5-58 pronounced;

5-59 (B) the entire fine and costs at some later date;

5-60 or

5-61 (C) a specified portion of the fine and costs at
 5-62 designated intervals;

5-63 (2) if applicable, to make restitution to any victim
 5-64 of the offense; and

5-65 (3) to satisfy any other sanction authorized by law.

5-66 SECTION 11. Article 45.0425(a), Code of Criminal Procedure,
 5-67 is amended to read as follows:

5-68 (a) If the court from whose judgment and sentence the appeal
 5-69 is taken is in session, the court must approve the bail. The amount

6-1 of an appeal [~~a bail~~] bond may not be less than two times the amount
 6-2 of the fine and costs adjudged against the defendant, payable to the
 6-3 State of Texas. The appeal bond [~~bail~~] may not in any case be for an
 6-4 amount [~~a sum~~] less than \$50. If the appeal bond otherwise meets
 6-5 the requirements of this code, the court without requiring a court
 6-6 appearance by the defendant shall approve the appeal bond in the
 6-7 amount the court under Article 27.14(b) notified the defendant
 6-8 would be approved.

6-9 SECTION 12. Article 45.045, Code of Criminal Procedure, is
 6-10 amended by adding Subsections (a-2) and (a-3) to read as follows:

6-11 (a-2) Before a court may issue a capias pro fine for the
 6-12 defendant's failure to satisfy the judgment according to its terms:

6-13 (1) the court must provide by regular mail to the
 6-14 defendant notice that includes:

6-15 (A) a statement that the defendant has failed to
 6-16 satisfy the judgment according to its terms; and

6-17 (B) a date and time when the court will hold a
 6-18 hearing on the defendant's failure to satisfy the judgment
 6-19 according to its terms; and

6-20 (2) either:

6-21 (A) the defendant fails to appear at the hearing;

6-22 or

6-23 (B) based on evidence presented at the hearing,
 6-24 the court determines that the capias pro fine should be issued.

6-25 (a-3) The court shall recall a capias pro fine if, before
 6-26 the capias pro fine is executed:

6-27 (1) the defendant voluntarily appears to resolve the
 6-28 amount owed; and

6-29 (2) the amount owed is resolved in any manner
 6-30 authorized by this chapter.

6-31 SECTION 13. Article 45.046(a), Code of Criminal Procedure,
 6-32 is amended to read as follows:

6-33 (a) When a judgment and sentence have been entered against a
 6-34 defendant and the defendant defaults in the discharge of the
 6-35 judgment, the judge may order the defendant confined in jail until
 6-36 discharged by law if the judge at a hearing makes a written
 6-37 determination that:

6-38 (1) the defendant is not indigent and has failed to
 6-39 make a good faith effort to discharge the fine or [~~and~~] costs; or

6-40 (2) the defendant is indigent and:

6-41 (A) has failed to make a good faith effort to
 6-42 discharge the fine or [~~finer and~~] costs under Article 45.049; and

6-43 (B) could have discharged the fine or [~~finer and~~]
 6-44 costs under Article 45.049 without experiencing any undue hardship.

6-45 SECTION 14. Article 45.048, Code of Criminal Procedure, is
 6-46 amended to read as follows:

6-47 Art. 45.048. DISCHARGED FROM JAIL. (a) A defendant placed
 6-48 in jail on account of failure to pay the fine and costs shall be
 6-49 discharged on habeas corpus by showing that the defendant:

6-50 (1) is too poor to pay the fine and costs; or

6-51 (2) has remained in jail a sufficient length of time to
 6-52 satisfy the fine and costs, at the rate of not less than \$100 [~~\$50~~]
 6-53 for each period [~~of time~~] served, as specified by the convicting
 6-54 court in the judgment in the case.

6-55 (b) A convicting court may specify a period [~~of time~~] that
 6-56 is not less than eight hours or more than 24 hours as the period for
 6-57 which a defendant who fails to pay the fine [~~finer~~] and costs in the
 6-58 case must remain in jail to satisfy \$100 [~~\$50~~] of the fine and
 6-59 costs.

6-60 SECTION 15. Article 45.049, Code of Criminal Procedure, is
 6-61 amended by amending Subsections (b), (c), (d), (e), (f), and (g) and
 6-62 adding Subsection (c-1) to read as follows:

6-63 (b) In the justice's or judge's order requiring a defendant
 6-64 to perform [~~participate in~~] community service [~~work~~] under this
 6-65 article, the justice or judge must specify:

6-66 (1) the number of hours of community service the
 6-67 defendant is required to perform; and

6-68 (2) the date by which the defendant must submit to the
 6-69 court documentation verifying the defendant's completion of the

7-1 community service [~~work~~].
 7-2 (c) The justice or judge may order the defendant to perform
 7-3 community service [~~work~~] under this article:
 7-4 (1) by attending:
 7-5 (A) a work and job skills training program;
 7-6 (B) a preparatory class for the high school
 7-7 equivalency examination administered under Section 7.111,
 7-8 Education Code;
 7-9 (C) an alcohol or drug abuse program;
 7-10 (D) a rehabilitation program;
 7-11 (E) a counseling program, including a
 7-12 self-improvement program;
 7-13 (F) a mentoring program; or
 7-14 (G) any similar activity; or
 7-15 (2) [~~only~~] for:
 7-16 (A) a governmental entity;
 7-17 (B) [~~or~~] a nonprofit organization or another
 7-18 organization that provides services to the general public that
 7-19 enhance social welfare and the general well-being of the community,
 7-20 as determined by the justice or judge; or
 7-21 (C) an educational institution.
 7-22 (c-1) An [~~A governmental~~] entity [~~or nonprofit~~
 7-23 ~~organization~~] that accepts a defendant under this article to
 7-24 perform community service must agree to supervise, either on-site
 7-25 or remotely, the defendant in the performance of the defendant's
 7-26 community service [~~work~~] and report on the defendant's community
 7-27 service [~~work~~] to the justice or judge who ordered the [~~community~~]
 7-28 service.
 7-29 (d) A justice or judge may not order a defendant to perform
 7-30 more than 16 hours per week of community service under this article
 7-31 unless the justice or judge determines that requiring the defendant
 7-32 to perform [~~work~~] additional hours does not impose an undue [~~work a~~]
 7-33 hardship on the defendant or the defendant's dependents.
 7-34 (e) A defendant is considered to have discharged not less
 7-35 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
 7-36 service performed under this article.
 7-37 (f) A sheriff, employee of a sheriff's department, county
 7-38 commissioner, county employee, county judge, justice of the peace,
 7-39 municipal court judge, or officer or employee of a political
 7-40 subdivision other than a county or an entity that accepts a
 7-41 defendant under this article to perform community service is not
 7-42 liable for damages arising from an act or failure to act in
 7-43 connection with community service [~~manual labor~~] performed by a
 7-44 defendant under this article if the act or failure to act:
 7-45 (1) was performed pursuant to court order; and
 7-46 (2) was not intentional, wilfully or wantonly
 7-47 negligent, or performed with conscious indifference or reckless
 7-48 disregard for the safety of others.
 7-49 (g) This subsection applies only to a defendant who is
 7-50 charged with a traffic offense or an offense under Section 106.05,
 7-51 Alcoholic Beverage Code, and is a resident of this state. If under
 7-52 Article 45.051(b)(10), Code of Criminal Procedure, the judge
 7-53 requires the defendant to perform community service as a condition
 7-54 of the deferral, the defendant is entitled to elect whether to
 7-55 perform the required [~~governmental entity or nonprofit~~
 7-56 ~~organization community~~] service in:
 7-57 (1) the county in which the court is located; or
 7-58 (2) the county in which the defendant resides, but
 7-59 only if the applicable entity [~~or organization~~] agrees to:
 7-60 (A) supervise, either on-site or remotely, the
 7-61 defendant in the performance of the defendant's community service
 7-62 [~~work~~]; and
 7-63 (B) report to the court on the defendant's
 7-64 community service [~~work~~].
 7-65 SECTION 16. Article 45.0491, Code of Criminal Procedure, is
 7-66 amended to read as follows:
 7-67 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
 7-68 CERTAIN [~~INDICENT~~] DEFENDANTS AND FOR CHILDREN. A municipal court,
 7-69 regardless of whether the court is a court of record, or a justice

8-1 court may waive payment of all or part of a fine or costs imposed on
 8-2 a defendant ~~[who defaults in payment]~~ if the court determines that:

8-3 (1) the defendant is indigent or does not have
 8-4 sufficient resources or income to pay all or part of the fine or
 8-5 costs or was, at the time the offense was committed, a child as
 8-6 defined by Article 45.058(h); and

8-7 (2) discharging the fine or ~~[and]~~ costs under Article
 8-8 45.049 or as otherwise authorized by this chapter would impose an
 8-9 undue hardship on the defendant.

8-10 SECTION 17. The heading to Article 45.0492, Code of
 8-11 Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the
 8-12 82nd Legislature, Regular Session, 2011, is amended to read as
 8-13 follows:

8-14 Art. 45.0492. COMMUNITY SERVICE ~~[OR TUTORING]~~ IN
 8-15 SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS.

8-16 SECTION 18. Article 45.0492, Code of Criminal Procedure, as
 8-17 added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
 8-18 Regular Session, 2011, is amended by amending Subsections (b), (c),
 8-19 (d), (f), (g), and (h) and adding Subsection (d-1) to read as
 8-20 follows:

8-21 (b) A justice or judge may require a defendant described by
 8-22 Subsection (a) to discharge all or part of the fine or costs by
 8-23 performing community service ~~[or attending a tutoring program that~~
 8-24 ~~is satisfactory to the court]~~. A defendant may discharge an
 8-25 obligation to perform community service ~~[or attend a tutoring~~
 8-26 ~~program]~~ under this article by paying at any time the fine and costs
 8-27 assessed.

8-28 (c) In the justice's or judge's order requiring a defendant
 8-29 to perform ~~[participate in]~~ community service ~~[work or a tutoring~~
 8-30 ~~program]~~ under this article, the justice or judge must specify:

8-31 (1) the number of hours of community service the
 8-32 defendant is required to perform; and

8-33 (2) the date by which the defendant must submit to the
 8-34 court documentation verifying the defendant's completion of the
 8-35 community service ~~[work or attend tutoring]~~.

8-36 (d) The justice or judge may order the defendant to perform
 8-37 community service ~~[work]~~ under this article:

8-38 (1) by attending:

8-39 (A) a work and job skills training program;

8-40 (B) a preparatory class for the high school
 8-41 equivalency examination administered under Section 7.111,
 8-42 Education Code;

8-43 (C) an alcohol or drug abuse program;

8-44 (D) a rehabilitation program;

8-45 (E) a counseling program, including a
 8-46 self-improvement program;

8-47 (F) a mentoring program;

8-48 (G) a tutoring program; or

8-49 (H) any similar activity; or

8-50 (2) [only] for:

8-51 (A) a governmental entity;

8-52 (B) [or] a nonprofit organization or another
 8-53 organization that provides services to the general public that
 8-54 enhance social welfare and the general well-being of the community,
 8-55 as determined by the justice or judge; or

8-56 (C) an educational institution.

8-57 (d-1) An ~~[A governmental]~~ entity ~~[or nonprofit~~
 8-58 ~~organization]~~ that accepts a defendant under this article to
 8-59 perform community service must agree to supervise, either on-site
 8-60 or remotely, the defendant in the performance of the defendant's
 8-61 community service ~~[work]~~ and report on the defendant's community
 8-62 service ~~[work]~~ to the justice or judge who ordered the ~~[community]~~
 8-63 service.

8-64 (f) A justice or judge may not order a defendant to perform
 8-65 more than 16 hours of community service per week ~~[or attend more~~
 8-66 ~~than 16 hours of tutoring per week]~~ under this article unless the
 8-67 justice or judge determines that requiring the defendant to perform
 8-68 additional hours ~~[of work or tutoring]~~ does not impose an undue
 8-69 [cause a] hardship on the defendant or the defendant's family. For

9-1 purposes of this subsection, "family" has the meaning assigned by
 9-2 Section 71.003, Family Code.

9-3 (g) A defendant is considered to have discharged not less
 9-4 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
 9-5 service performed [~~or tutoring program attended~~] under this
 9-6 article.

9-7 (h) A sheriff, employee of a sheriff's department, county
 9-8 commissioner, county employee, county judge, justice of the peace,
 9-9 municipal court judge, or officer or employee of a political
 9-10 subdivision other than a county or an entity that accepts a
 9-11 defendant under this article to perform community service~~[~~
 9-12 ~~nonprofit organization, or tutoring program]~~ is not liable for
 9-13 damages arising from an act or failure to act in connection with
 9-14 community service [~~an activity~~] performed by a defendant under this
 9-15 article if the act or failure to act:

9-16 (1) was performed pursuant to court order; and

9-17 (2) was not intentional, grossly negligent, or
 9-18 performed with conscious indifference or reckless disregard for the
 9-19 safety of others.

9-20 SECTION 19. Article 45.0492, Code of Criminal Procedure, as
 9-21 added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature,
 9-22 Regular Session, 2011, is amended by amending Subsections (c), (d),
 9-23 (e), and (f) and adding Subsections (d-1) and (h) to read as
 9-24 follows:

9-25 (c) In the justice's or judge's order requiring a defendant
 9-26 to perform community service under this article, the justice or
 9-27 judge shall specify:

9-28 (1) the number of hours of community service the
 9-29 defendant is required to perform, [and may] not to exceed [~~order~~
 9-30 ~~more than~~] 200 hours; and

9-31 (2) the date by which the defendant must submit to the
 9-32 court documentation verifying the defendant's completion of the
 9-33 community service.

9-34 (d) The justice or judge may order the defendant to perform
 9-35 community service [~~work~~] under this article:

9-36 (1) by attending:

9-37 (A) a work and job skills training program;

9-38 (B) a preparatory class for the high school
 9-39 equivalency examination administered under Section 7.111,
 9-40 Education Code;

9-41 (C) an alcohol or drug abuse program;

9-42 (D) a rehabilitation program;

9-43 (E) a counseling program, including a
 9-44 self-improvement program;

9-45 (F) a mentoring program; or

9-46 (G) any similar activity; or

9-47 (2) [only] for:

9-48 (A) a governmental entity;

9-49 (B) [or] a nonprofit organization or another
 9-50 organization that provides services to the general public that
 9-51 enhance social welfare and the general well-being of the community,
 9-52 as determined by the justice or judge; or

9-53 (C) an educational institution.

9-54 (d-1) An [A governmental] entity [~~or nonprofit~~
 9-55 ~~organization]~~ that accepts a defendant under this article to
 9-56 perform community service must agree to supervise, either on-site
 9-57 or remotely, the defendant in the performance of the defendant's
 9-58 community service [~~work~~] and report on the defendant's community
 9-59 service [~~work~~] to the justice or judge who ordered the [~~community~~]
 9-60 service.

9-61 (e) A justice or judge may not order a defendant to perform
 9-62 more than 16 hours of community service per week under this article
 9-63 unless the justice or judge determines that requiring the defendant
 9-64 to perform additional hours [~~of work~~] does not impose an undue
 9-65 [cause a] hardship on the defendant or the defendant's family. For
 9-66 purposes of this subsection, "family" has the meaning assigned by
 9-67 Section 71.003, Family Code.

9-68 (f) A sheriff, employee of a sheriff's department, county
 9-69 commissioner, county employee, county judge, justice of the peace,

10-1 municipal court judge, or officer or employee of a political
10-2 subdivision other than a county or an entity that accepts a
10-3 defendant under this article to perform community service is not
10-4 liable for damages arising from an act or failure to act in
10-5 connection with community service performed by a defendant under
10-6 this article if the act or failure to act:

- 10-7 (1) was performed pursuant to court order; and
- 10-8 (2) was not intentional, wilfully or wantonly
- 10-9 negligent, or performed with conscious indifference or reckless
- 10-10 disregard for the safety of others.

10-11 (h) A defendant is considered to have discharged not less
10-12 than \$100 of fines or costs for each eight hours of community
10-13 service performed under this article.

10-14 SECTION 20. Article 45.051(a), Code of Criminal Procedure,
10-15 is amended to read as follows:

10-16 (a) On a plea of guilty or nolo contendere by a defendant or
10-17 on a finding of guilt in a misdemeanor case punishable by fine only
10-18 and payment of all court costs, the judge may defer further
10-19 proceedings without entering an adjudication of guilt and place the
10-20 defendant on probation for a period not to exceed 180 days. In
10-21 issuing the order of deferral, the judge may impose a special
10-22 expense fee on the defendant in an amount not to exceed the amount
10-23 of the fine that could be imposed on the defendant as punishment for
10-24 the offense. The special expense fee may be collected at any time
10-25 before the date on which the period of probation ends. The judge
10-26 may elect not to impose the special expense fee for good cause shown
10-27 by the defendant. If the judge orders the collection of a special
10-28 expense fee, the judge shall require that the amount of the special
10-29 expense fee be credited toward the payment of the amount of the fine
10-30 imposed by the judge. An order of deferral under this subsection
10-31 terminates any liability under a [~~bail bond or an appearance~~] bond
10-32 given for the charge.

10-33 SECTION 21. Article 45.0511(t), Code of Criminal Procedure,
10-34 is amended to read as follows:

10-35 (t) An order of deferral under Subsection (c) terminates any
10-36 liability under a [~~bail bond or appearance~~] bond given for the
10-37 charge.

10-38 SECTION 22. Article 103.0031(j), Code of Criminal
10-39 Procedure, is amended to read as follows:

10-40 (j) A communication to the accused person regarding the
10-41 amount of payment that is acceptable to the court under the court's
10-42 standard policy for resolution of a case must include:

- 10-43 (1) a notice of the person's right to enter a plea or go
- 10-44 to trial on any offense charged; and
- 10-45 (2) a statement that, if the person is unable to pay
- 10-46 the full amount of payment that is acceptable to the court, the
- 10-47 person should contact the court regarding the alternatives to full
- 10-48 payment that are available to resolve the case.

10-49 SECTION 23. Section 502.010, Transportation Code, is
10-50 amended by amending Subsections (a) and (c) and adding Subsections
10-51 (b-1), (i), and (j) to read as follows:

10-52 (a) Except as otherwise provided by this section, a [A]
10-53 county assessor-collector or the department may refuse to register
10-54 a motor vehicle if the assessor-collector or the department
10-55 receives information that the owner of the vehicle:

- 10-56 (1) owes the county money for a fine, fee, or tax that
- 10-57 is past due; or
- 10-58 (2) failed to appear in connection with a complaint,
- 10-59 citation, information, or indictment in a court in the county in
- 10-60 which a criminal proceeding is pending against the owner.

10-61 (b-1) Information that is provided to make a determination
10-62 under Subsection (a)(1) and that concerns the past due status of a
10-63 fine or fee imposed for a criminal offense and owed to the county
10-64 expires on the second anniversary of the date the information was
10-65 provided and may not be used to refuse registration after that date.
10-66 Once information about a past due fine or fee is provided under
10-67 Subsection (b), subsequent information about other fines or fees
10-68 that are imposed for a criminal offense and that become past due
10-69 before the second anniversary of the date the initial information

11-1 was provided may not be used, either before or after the second
 11-2 anniversary of that date, to refuse registration under this section
 11-3 unless the motor vehicle is no longer subject to refusal of
 11-4 registration because of notice received under Subsection (c).

11-5 (c) A county that has a contract under Subsection (b) shall
 11-6 notify the department regarding a person for whom the county
 11-7 assessor-collector or the department has refused to register a
 11-8 motor vehicle on:

11-9 (1) the person's payment or other means of discharge,
 11-10 including a waiver, of the past due fine, fee, or tax; or

11-11 (2) perfection of an appeal of the case contesting
 11-12 payment of the fine, fee, or tax.

11-13 (i) A municipal court judge or justice of the peace who has
 11-14 jurisdiction over the underlying offense may waive an additional
 11-15 fee imposed under Subsection (f) if the judge or justice makes a
 11-16 finding that the defendant is economically unable to pay the fee or
 11-17 that good cause exists for the waiver.

11-18 (j) If a county assessor-collector is notified that the
 11-19 court having jurisdiction over the underlying offense has waived
 11-20 the past due fine or fee due to the defendant's indigency, the
 11-21 county may not impose an additional fee on the defendant under
 11-22 Subsection (f).

11-23 SECTION 24. Section 502.010(f), Transportation Code, as
 11-24 amended by Chapters 1094 (S.B. 1386) and 1296 (H.B. 2357), Acts of
 11-25 the 82nd Legislature, Regular Session, 2011, is reenacted and
 11-26 amended to read as follows:

11-27 (f) Except as otherwise provided by this section, a [A]
 11-28 county that has a contract under Subsection (b) may impose an
 11-29 additional fee of \$20 to:

11-30 (1) a person who fails to pay a fine, fee, or tax to the
 11-31 county by the date on which the fine, fee, or tax is due; or

11-32 (2) a person who fails to appear in connection with a
 11-33 complaint, citation, information, or indictment in a court in which
 11-34 a criminal proceeding is pending against the owner. [The
 11-35 additional fee may be used only to reimburse the department or the
 11-36 county for its expenses for providing services under the contract.]

11-37 SECTION 25. Section 706.005, Transportation Code, is
 11-38 amended to read as follows:

11-39 Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) A
 11-40 political subdivision shall immediately notify the department that
 11-41 there is no cause to continue to deny renewal of a person's driver's
 11-42 license based on the person's previous failure to appear or failure
 11-43 to pay or satisfy a judgment ordering the payment of a fine and cost
 11-44 in the manner ordered by the court in a matter involving an offense
 11-45 described by Section 706.002(a), on payment of a fee as provided by
 11-46 Section 706.006 and:

11-47 (1) the perfection of an appeal of the case for which
 11-48 the warrant of arrest was issued or judgment arose;

11-49 (2) the dismissal of the charge for which the warrant
 11-50 of arrest was issued or judgment arose, other than a dismissal with
 11-51 prejudice by motion of the appropriate prosecuting attorney for
 11-52 lack of evidence;

11-53 (3) the posting of bond or the giving of other security
 11-54 to reinstate the charge for which the warrant was issued;

11-55 (4) the payment or discharge of the fine and cost owed
 11-56 on an outstanding judgment of the court; or

11-57 (5) other suitable arrangement to pay the fine and
 11-58 cost within the court's discretion.

11-59 (b) The department may not continue to deny the renewal of
 11-60 the person's driver's license under this chapter after the
 11-61 department receives notice:

11-62 (1) under Subsection (a);

11-63 (2) that the person was acquitted of the charge on
 11-64 which the person failed to appear;

11-65 (3) that the charge on which the person failed to
 11-66 appear was dismissed with prejudice by motion of the appropriate
 11-67 prosecuting attorney for lack of evidence; or

11-68 (4) [43] from the political subdivision that the
 11-69 failure to appear report or court order to pay a fine or cost

12-1 relating to the person:

12-2 (A) was sent to the department in error; or

12-3 (B) has been destroyed in accordance with the
12-4 political subdivision's records retention policy.

12-5 SECTION 26. Section 706.006, Transportation Code, is
12-6 amended by amending Subsections (a) and (b) and adding Subsections
12-7 (a-1) and (d) to read as follows:

12-8 (a) Except as provided by Subsection (d), a [A] person who
12-9 fails to appear for a complaint or citation for an offense described
12-10 by Section 706.002(a) shall be required to pay an administrative
12-11 fee of \$30 for each complaint or citation reported to the department
12-12 under this chapter, unless:

12-13 (1) the person is acquitted of the charges for which
12-14 the person failed to appear;

12-15 (2) the charges on which the person failed to appear
12-16 were dismissed with prejudice by motion of the appropriate
12-17 prosecuting attorney for lack of evidence;

12-18 (3) the failure to appear report was sent to the
12-19 department in error; or

12-20 (4) the case regarding the complaint or citation is
12-21 closed and the failure to appear report has been destroyed in
12-22 accordance with the applicable political subdivision's records
12-23 retention policy.

12-24 (a-1) A [The] person who is required to pay a fee under
12-25 Subsection (a) shall pay the fee when:

12-26 (1) the court enters judgment on the underlying
12-27 offense reported to the department;

12-28 (2) the underlying offense is dismissed, other than a
12-29 dismissal described by Subsection (a)(2); or

12-30 (3) bond or other security is posted to reinstate the
12-31 charge for which the warrant was issued.

12-32 (b) Except as provided by Subsection (d), a [A] person who
12-33 fails to pay or satisfy a judgment ordering the payment of a fine
12-34 and cost in the manner the court orders shall be required to pay an
12-35 administrative fee of \$30.

12-36 (d) If the court having jurisdiction over the underlying
12-37 offense makes a finding that the person is indigent, the person may
12-38 not be required to pay an administrative fee under this section.
12-39 For purposes of this subsection, a person is presumed to be indigent
12-40 if the person:

12-41 (1) is required to attend school full time under
12-42 Section 25.085, Education Code;

12-43 (2) is a member of a household with a total annual
12-44 income that is below 125 percent of the applicable income level
12-45 established by the federal poverty guidelines; or

12-46 (3) receives assistance from:

12-47 (A) the financial assistance program established
12-48 under Chapter 31, Human Resources Code;

12-49 (B) the medical assistance program under Chapter
12-50 32, Human Resources Code;

12-51 (C) the supplemental nutrition assistance
12-52 program established under Chapter 33, Human Resources Code;

12-53 (D) the federal special supplemental nutrition
12-54 program for women, infants, and children authorized by 42 U.S.C.
12-55 Section 1786; or

12-56 (E) the child health plan program under Chapter
12-57 62, Health and Safety Code.

12-58 SECTION 27. Article 45.0492(e), Code of Criminal Procedure,
12-59 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
12-60 Regular Session, 2011, is repealed.

12-61 SECTION 28. The changes in law made by this Act to Articles
12-62 14.06 and 27.14, Code of Criminal Procedure, and Section 502.010
12-63 and Chapter 706, Transportation Code, apply only to an offense
12-64 committed on or after the effective date of this Act. An offense
12-65 committed before the effective date of this Act is governed by the
12-66 law in effect on the date the offense was committed, and the former
12-67 law is continued in effect for that purpose. For purposes of this
12-68 section, an offense was committed before the effective date of this
12-69 Act if any element of the offense occurred before that date.

13-1 SECTION 29. The changes in law made by this Act to Articles
13-2 42.15, 43.09, 43.091, 45.014, 45.041, 45.046, 45.049, and 45.0491,
13-3 Code of Criminal Procedure, and Articles 45.0492, Code of Criminal
13-4 Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd
13-5 Legislature, Regular Session, 2011, and 45.0492, Code of Criminal
13-6 Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd
13-7 Legislature, Regular Session, 2011, apply to a sentencing
13-8 proceeding that commences before, on, or after the effective date
13-9 of this Act.

13-10 SECTION 30. The change in law made by this Act to Articles
13-11 43.05 and 45.045, Code of Criminal Procedure, applies only to a
13-12 capias pro fine issued on or after the effective date of this Act. A
13-13 capias pro fine issued before the effective date of this Act is
13-14 governed by the law in effect on the date the capias pro fine was
13-15 issued, and the former law is continued in effect for that purpose.

13-16 SECTION 31. The changes in law made by this Act to Articles
13-17 45.016, 45.051, and 45.0511, Code of Criminal Procedure, apply only
13-18 to a bond executed on or after the effective date of this Act. A
13-19 bond executed before the effective date of this Act is governed by
13-20 the law in effect when the bond was executed, and the former law is
13-21 continued in effect for that purpose.

13-22 SECTION 32. The change in law made by this Act to Article
13-23 45.048, Code of Criminal Procedure, applies to a defendant who is
13-24 placed in jail on or after the effective date of this Act for
13-25 failure to pay the fine and costs imposed on conviction of an
13-26 offense, regardless of whether the offense for which the defendant
13-27 was convicted was committed before, on, or after the effective date
13-28 of this Act.

13-29 SECTION 33. This Act takes effect September 1, 2017.

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