

By: Wu

H.B. No. 1441

A BILL TO BE ENTITLED

AN ACT

relating to a defendant's discharge of fines and costs through
confinement in jail or community service.

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

SECTION 1. Article 45.041, Code of Criminal Procedure, is
amended by amending Subsection (b) and adding Subsection (b-2a) to
read as follows:

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

(1) to pay:

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

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

or

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

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

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

(b-2a) If in imposing a fine and costs the justice or judge
determines that the defendant has insufficient resources or income
to pay the fine or costs, the justice or judge shall permit the
defendant to elect to discharge all or part of the fine or costs by
performing community service as provided by Article 45.049.

1 SECTION 2. Article 45.046, Code of Criminal Procedure, is
2 amended by amending Subsection (a) and adding Subsection (a-1) to
3 read as follows:

4 (a) When a judgment and sentence have been entered against a
5 defendant and the defendant defaults in the discharge of the
6 judgment, the judge may order the defendant confined in jail until
7 discharged by law only if:

8 (1) the total amount of the fine and costs that remains
9 unpaid is greater than \$100; and

10 (2) the judge at a hearing makes a written
11 determination that:

12 (A) [~~(1)~~] the defendant is not indigent and has
13 failed to make a good faith effort to discharge the fine and costs;
14 or

15 (B) [~~(2)~~] the defendant is indigent and:

16 (i) [~~(A)~~] has failed to make a good faith
17 effort to discharge the fines and costs under Article 45.049; and

18 (ii) [~~(B)~~] could have discharged the fines
19 and costs under Article 45.049 without experiencing any undue
20 hardship.

21 (a-1) The judge may not permit a defendant to voluntarily
22 discharge a fine or costs through confinement in jail unless the
23 conditions under Subsection (a) are met.

24 SECTION 3. Article 45.049, Code of Criminal Procedure, is
25 amended by amending Subsections (a), (b), and (c) and adding
26 Subsections (a-1) and (a-2) to read as follows:

27 (a) A justice or judge may require a defendant who fails to

1 pay a previously assessed fine or costs, or who is determined by the
2 court to have insufficient resources or income to pay a fine or
3 costs, to discharge all or part of the fine or costs by performing
4 community service.

5 (a-1) At sentencing, a defendant to whom Article
6 45.041(b-2a) applies may elect to perform community service under
7 this article to discharge all or part of the fine or costs assessed
8 in the case.

9 (a-2) A defendant may discharge an obligation to perform
10 community service under this article by paying at any time the fine
11 and costs assessed.

12 (b) In the justice's or judge's order requiring or
13 permitting a defendant to participate in community service work
14 under this article, the justice or judge must specify the number of
15 hours the defendant is required to work.

16 (c) The justice or judge may order the defendant, or the
17 defendant may elect under Subsection (a-1), to perform community
18 service work under this article only for a governmental entity or a
19 nonprofit organization that provides services to the general public
20 that enhance social welfare and the general well-being of the
21 community. A governmental entity or nonprofit organization that
22 accepts a defendant under this article to perform community service
23 must agree to supervise the defendant in the performance of the
24 defendant's work and report on the defendant's work to the justice
25 or judge who ordered the community service.

26 SECTION 4. (a) Articles 45.041 and 45.049, Code of Criminal
27 Procedure, as amended by this Act, apply only to a sentencing

1 proceeding that commences on or after the effective date of this
2 Act.

3 (b) Article [45.046](#), Code of Criminal Procedure, as amended
4 by this Act, applies only to a default in payment that occurs on or
5 after the effective date of this Act.

6 SECTION 5. This Act takes effect September 1, 2017.