

Suspending limitations on conference committee
jurisdiction, S.B. No. 1913 (Zaffirini/Thompson of Harris)

By: Thompson of Harris

H.R. No. 2605

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 85th Legislature, Regular Session, 2017, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 1913 (the administrative,
6 civil, and criminal consequences, including fines, fees, and costs,
7 imposed on persons arrested for, charged with, or convicted of
8 certain criminal offenses) to consider and take action on the
9 following matters:

10 (1) House Rule 13, Sections 9(a)(1) and (2), are suspended
11 to permit the committee to amend and omit text not in disagreement
12 in SECTION 5 of the bill, in added Articles 43.05(a-1) and (a-2),
13 Code of Criminal Procedure, to read as follows:

14 (a-1) A court may not issue a capias pro fine for the
15 defendant's failure to satisfy the judgment according to its terms
16 unless the court holds a hearing on the defendant's ability to
17 satisfy the judgment and:

18 (1) the defendant fails to appear at the hearing; or
19 (2) based on evidence presented at the hearing, the
20 court determines that the capias pro fine should be issued.

21 (a-2) The court shall recall a capias pro fine if, before
22 the capias pro fine is executed:

23 (1) the defendant voluntarily appears to resolve the
24 amount owed; and

1 (2) the amount owed is resolved in any manner
2 authorized by this code.

3 Explanation: This change is necessary to clarify the
4 circumstances in which a court may issue or shall recall a *capias*
5 *pro fine*.

6 (2) House Rule 13, Section 9(a)(2), is suspended to permit
7 the committee to omit text not in disagreement in SECTION 7 of the
8 bill, in amended Article 43.091, Code of Criminal Procedure, to
9 read as follows:

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

14 (1) the defendant is indigent or does not have
15 sufficient resources or income to pay all or part of the fine or
16 costs or was, at the time the offense was committed, a child as
17 defined by Article 45.058(h); and

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

21 Explanation: This change is necessary to remove unnecessary
22 and duplicative language.

23 (3) House Rule 13, Sections 9(a)(1) and (2), are suspended
24 to permit the committee to amend and omit text not in disagreement
25 in SECTION 8 of the bill, in added Article 45.014(e), Code of
26 Criminal Procedure, to read as follows:

27 (e) A justice or judge may not issue an arrest warrant for

1 the defendant's failure to appear at the initial court setting,
2 including failure to appear as required by a citation issued under
3 Article 14.06(b), unless:

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

6 (A) a date and time, occurring within the 30-day
7 period following the date that notice is provided, when the
8 defendant must appear before the justice or judge;

9 (B) the name and address of the court with
10 jurisdiction in the case;

11 (C) information regarding alternatives to the
12 full payment of any fine or costs owed by the defendant, if the
13 defendant is unable to pay that amount; and

14 (D) an explanation of the consequences if the
15 defendant fails to appear before the justice or judge as required by
16 this article; and

17 (2) the defendant fails to appear before the justice
18 or judge as required by this article.

19 Explanation: This change is necessary to clarify and simplify
20 the limitation on a justice or judge's authority to issue an arrest
21 warrant for a defendant's failure to appear.

22 (4) House Rule 13, Section 9(a)(1), is suspended to permit
23 the committee to amend text not in disagreement in SECTION 9 of the
24 bill, in added Article 45.016(b), Code of Criminal Procedure, to
25 read as follows:

26 (b) The justice or judge may not, either instead of or in
27 addition to the personal bond, require a defendant to give a bail

1 bond unless:

2 (1) the defendant fails to appear in accordance with
3 this code with respect to the applicable offense; and

4 (2) the justice or judge determines that:

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

7 (B) a bail bond is necessary to secure the
8 defendant's appearance in accordance with this code.

9 Explanation: This change is necessary to clarify the
10 circumstances in which a justice or judge may require a defendant to
11 give a bail bond in a criminal case based on an offense punishable
12 by fine only.

13 (5) House Rule 13, Sections 9(a)(1) and (2), are suspended
14 to permit the committee to amend and omit text not in disagreement
15 in SECTION 12 of the bill, in added Articles 45.045(a-2) and (a-3),
16 Code of Criminal Procedure, to read as follows:

17 (a-2) The court may not issue a capias pro fine for the
18 defendant's failure to satisfy the judgment according to its terms
19 unless the court holds a hearing on the defendant's ability to
20 satisfy the judgment and:

21 (1) the defendant fails to appear at the hearing; or

22 (2) based on evidence presented at the hearing, the
23 court determines that the capias pro fine should be issued.

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

26 (1) the defendant voluntarily appears to resolve the
27 amount owed; and

1 (2) the amount owed is resolved in any manner
2 authorized by this chapter.

3 Explanation: This change is necessary to clarify the
4 circumstances in which a court may issue or shall recall a *capias*
5 *pro fine*.

6 (6) House Rule 13, Section 9(a)(2), is suspended to permit
7 the committee to omit text not in disagreement in SECTION 16 of the
8 bill, in amended Article 45.0491(a), Code of Criminal Procedure, to
9 read as follows:

10 (a) A municipal court, regardless of whether the court is a
11 court of record, or a justice court may waive payment of all or part
12 of a fine or costs imposed on a defendant [~~who defaults in payment~~]
13 if the court determines that:

14 (1) the defendant is indigent or does not have
15 sufficient resources or income to pay all or part of the fine or
16 costs or was, at the time the offense was committed, a child as
17 defined by Article 45.058(h); and

18 (2) discharging the fine or [~~and~~] costs under Article
19 45.049 or as otherwise authorized by this chapter would impose an
20 undue hardship on the defendant.

21 Explanation: This change is necessary to remove unnecessary
22 and duplicative language.

23 (7) House Rule 13, Section 9(a)(3), is suspended to permit
24 the committee to add text on a matter which is not in disagreement
25 by adding SECTIONS 20 and 21 to the bill, amending Articles
26 45.051(a) and 45.0511(t), Code of Criminal Procedure, to read as
27 follows:

1 SECTION 20. Article 45.051(a), Code of Criminal Procedure,
2 is amended to read as follows:

3 (a) On a plea of guilty or nolo contendere by a defendant or
4 on a finding of guilt in a misdemeanor case punishable by fine only
5 and payment of all court costs, the judge may defer further
6 proceedings without entering an adjudication of guilt and place the
7 defendant on probation for a period not to exceed 180 days. In
8 issuing the order of deferral, the judge may impose a special
9 expense fee on the defendant in an amount not to exceed the amount
10 of the fine that could be imposed on the defendant as punishment for
11 the offense. The special expense fee may be collected at any time
12 before the date on which the period of probation ends. The judge
13 may elect not to impose the special expense fee for good cause shown
14 by the defendant. If the judge orders the collection of a special
15 expense fee, the judge shall require that the amount of the special
16 expense fee be credited toward the payment of the amount of the fine
17 imposed by the judge. An order of deferral under this subsection
18 terminates any liability under a [~~bail bond or an appearance~~] bond
19 given for the charge.

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

22 (t) An order of deferral under Subsection (c) terminates any
23 liability under a [~~bail bond or appearance~~] bond given for the
24 charge.

25 Explanation: The addition of text is a technical change
26 necessary to conform to the changes made in SECTION 9 of the bill,
27 in added Article 45.016(b), Code of Criminal Procedure.

1 (8) House Rule 13, Section 9(a)(1), is suspended to permit
2 the committee to amend text not in disagreement in SECTION 31 of the
3 bill, in the transition language, to read as follows:

4 SECTION 31. The changes in law made by this Act to Articles
5 [45.016](#), [45.051](#), and [45.0511](#), Code of Criminal Procedure, apply only
6 to a bond executed on or after the effective date of this Act. A
7 bond executed before the effective date of this Act is governed by
8 the law in effect when the bond was executed, and the former law is
9 continued in effect for that purpose.

10 Explanation: This change is necessary to properly implement
11 the addition of SECTIONS 20 and 21 to the bill.