Suspending limitations on conference committee
jurisdiction, S.B. No. 1913

By: Zaffirini   S.R. No. 926

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 85th
Legislature, Regular Session, 2017, That Senate Rule 12.03 be
suspended in part as provided by Senate Rule 12.08 to enable the
conference committee appointed to resolve the differences on
Senate Bill 1913 (the administrative, civil, and criminal
consequences, including fines, fees, and costs, imposed on
persons arrested for, charged with, or convicted of certain
criminal offenses) to consider and take action on the following
matters:

(1) Senate Rules 12.03(1) and (2) are suspended to permit
the committee to amend and omit text not in disagreement in
SECTION 5 of the bill, in added Articles 43.05(a-1) and (a-2),
Code of Criminal Procedure, to read as follows:

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

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

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

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

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

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

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

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text not in disagreement in SECTION 7 of the bill, in amended Article 43.091, Code of Criminal Procedure, to read as follows:

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

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

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

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

(3) Senate Rules 12.03(1) and (2) are suspended to permit the committee to amend and omit text not in disagreement in SECTION 8 of the bill, in added Article 45.014(e), Code of Criminal Procedure, to read as follows:

(e) A justice or judge may not issue an arrest warrant for the defendant's failure to appear at the initial court setting, including failure to appear as required by a citation issued under Article 14.06(b), unless:

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

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

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

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

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

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

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

(4) Senate Rule 12.03(1) is suspended to permit the committee to amend text not in disagreement in SECTION 9 of the bill, in added Article 45.016(b), Code of Criminal Procedure, to read as follows:

(b) The justice or judge may not, either instead of or in

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addition to the personal bond, require a defendant to give a bail bond unless:

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

(2)   the justice or judge determines that:

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

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

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

(5)   Senate Rules 12.03(1) and (2) are suspended to permit the committee to amend and omit text not in disagreement in SECTION 12 of the bill, in added Articles 45.045(a-2) and (a-3), Code of Criminal Procedure, to read as follows:

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

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

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

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

(1)   the defendant voluntarily appears to resolve

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the amount owed; and

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

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

(6) Senate Rule 12.03(2) is suspended to permit the
committee to omit text not in disagreement in SECTION 16 of the
bill, in amended Article 45.0491(a), Code of Criminal Procedure,
to read as follows:

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

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

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

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

(7) Senate Rule 12.03(3) is suspended to permit the
committee to add text on a matter which is not in disagreement by
adding SECTIONS 20 and 21 to the bill, amending Articles
45.051(a) and 45.0511(t), Code of Criminal Procedure, to read as

follows:

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

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

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

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

Explanation: The addition of text is a technical change necessary to conform to the changes made in SECTION 9 of the bill,

in added Article 45.016(b), Code of Criminal Procedure.

(8) Senate Rule 12.03(1) is suspended to permit the committee to amend text not in disagreement in SECTION 31 of the bill, in the transition language, to read as follows:

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

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

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President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 28, 2017, by the following vote: Yeas 26, Nays 5.

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Secretary of the Senate