

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 25, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB351** by Canales (Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.), **As Passed 2nd House**

**The bill would have a negative, but indeterminate, fiscal impact to the state due to anticipated revenue decreases resulting from an unknown number of defendants that would be determined to be indigent or unable to pay receiving a waiver or discharge from fines, fees, and court costs.**

The bill would make several amendments the Code of Criminal Procedure and Transportation Code. The bill would require standard language in citations, complaints, and other notices regarding alternatives to payment to satisfy fines and court costs assessed against a defendant who is unable to pay. The bill would limit a court to the use of personal bonds for a defendant charged with certain misdemeanors, and a court would be prohibited from assessing a fee associated with that bond.

The bill would require a court to inquire whether a defendant has sufficient resources to pay all or part of assessed fines during or immediately after sentencing. If a judge determines that the defendant does not have the ability to pay all or part of the fines or costs, then the judge would determine whether the defendant should pay the fine or costs in an installment plan, satisfy the fine or costs through community service, waive the costs in full or in part, or any combination of these methods. The bill would limit the authority of a justice or judge to issue an arrest warrant for failure to appear only if the defendant misses the initial court setting unless a judge takes certain actions.

The bill would authorize the release of certain defendants that successfully complete a term of community supervision or a drug court program. The bill would add defendants ordered to participate in a pretrial intervention program to the list of defendants addressed by the bill.

The bill would require a court, before issuing a *capias pro fine* for a defendant for failure to pay, to hold a hearing. Only if the defendant failed to appear or if the defendant appears and the court makes a finding that the defendant's failure to pay has been willful would the court be allowed to issue a *capias pro fine*. If the defendant voluntarily appears to resolve the matter before the *capias pro fine* is executed, the court would be required to recall the *capias pro fine*.

The bill would increase the amount of credit provided to defendants who satisfy payment of their fine and court costs through confinement in jail or community service. The credit for confinement in jail would increase from \$50 per day to \$100 per day, and the credit for community service

would increase from \$50 to \$100 for every eight hours of service performed. The bill would also expand the types of work authorized under community service to include work for a religious organization, a neighborhood association or group, or an educational institution. Defendants would also be able to attend a job skills training program or GED preparatory class to complete their community service requirements.

The bill would require a court to notify a defendant before issuing an arrest warrant for the defendant's failure to appear and would specify the contents and form of the notification. The bill would allow a court to waive the \$20 Scofflaw fee and the \$30 Omnibase fee if the court determines that a defendant is unable to pay or if good cause exists to waive the fees.

The bill would require the establishment of a commission created to study and review all penal laws other than criminal offenses and that would make recommendations to the Legislature regarding the repeal or amendment of laws identified by the commission as being insufficient to serve the intended purpose of the law. The bill would define the members of the commission and identifies offices that may make appointments to its membership. The bill would require the commission to report on these findings no later than November 1, 2018. The commission would be abolished on December 31, 2018.

The bill would amend the Penal Code as it relates to the punishment for the offense of forgery and to a fee imposed on certain defendants who commit the offense. Under the provisions of the bill, forgery would be modified to include a value ladder. The punishment for certain kinds of forgery conducted to obtain or attempt to obtain a property or service would range from a misdemeanor to a felony with the punishment level increasing in severity based on the pecuniary value of the property or service obtained through forgery.

The bill would take effect September 1, 2017.

According to the Comptroller of Public Accounts, the extent to which courts would waive, reduce, or postpone payment of fines and costs on determinations that defendants lack sufficient resources or income to pay is unknown; therefore, it is estimated that there would be a negative, but indeterminate, revenue loss that would occur as a result of the waiver or discharge of fines, fees, and court costs by justices or judges cannot be determined.

This estimate assumes duties and responsibilities associated with implementing the remaining provisions of the bill that pertain to these agencies could be accomplished using existing resources. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

### **Local Government Impact**

Local governments may see an indeterminate decrease in fine or court cost collections due to judicial waiver of costs and fines. The overall impact of the bill will vary by county and municipality based upon the volume of cases.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** UP, KJo, MW, GDz, JPo, LCO, JGA