

SENATE AMENDMENTS

2nd Printing

By: Canales, White, Lucio III, Leach, Murr

H.B. No. 351

A BILL TO BE ENTITLED

AN ACT

relating to the discharge or waiver of fines and costs imposed on indigent defendants; authorizing a fee.

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

SECTION 1. Article 42.15(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsections (c) and (d) and Article 43.09(f), when imposing a fine and costs, a court may direct a defendant:

(1) to pay the entire fine and costs when sentence is pronounced;

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

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

SECTION 2. Article 43.09, Code of Criminal Procedure, is amended by amending Subsections (f) and (g) and adding Subsections (g-1) and (g-2) to read as follows:

(f) At sentencing or at any time after sentencing, a [A] court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

(g) In its order requiring a defendant to perform [~~participate in~~] community service [~~work~~] under Subsection (f) [~~of this article~~], the court must specify:

1 (1) the number of hours the defendant is required to
2 work; ~~and~~

3 (2) the date by which the community service must be
4 completed; and

5 (3) whether the community supervision and corrections
6 department or a court-related services office will perform the
7 administrative duties required by the placement of the defendant in
8 the community service program.

9 (g-1) The court may order a defendant required to perform
10 community service under Subsection (f) to pay a reasonable
11 administrative fee for the administration and supervision of the
12 defendant's community service.

13 (g-2) If the defendant fails to complete community service
14 required under this article by the date specified under Subsection
15 (g)(2), the amount of the fine or costs that remains unpaid on that
16 date is automatically reinstated and due.

17 SECTION 3. Article 43.091, Code of Criminal Procedure, is
18 amended to read as follows:

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

23 (1) the defendant is indigent or was, at the time the
24 offense was committed, a child as defined by Article 45.058(h); and

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

1 SECTION 4. Article 45.041, Code of Criminal Procedure, is
2 amended by amending Subsection (b) and adding Subsection (b-2a) to
3 read as follows:

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

6 (1) to pay:

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

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

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

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

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

16 (b-2a) If in imposing a fine and costs the justice or judge
17 determines that the defendant has insufficient resources or income
18 to pay the fine or costs, the justice or judge may require the
19 defendant to discharge all or part of the fine or costs by
20 performing community service as provided by Article 45.049.

21 SECTION 5. Article 45.049, Code of Criminal Procedure, is
22 amended by amending Subsection (b) and adding Subsections (b-1) and
23 (b-2) to read as follows:

24 (b) In the justice's or judge's order requiring a defendant
25 to perform [~~participate in~~] community service [~~work~~] under this
26 article, the justice or judge must specify the number of hours the
27 defendant is required to work and the date by which the community

1 service must be completed.

2 (b-1) The justice or judge may order a defendant required to
3 perform community service under this article to pay a reasonable
4 administrative fee for the administration and supervision of the
5 defendant's community service.

6 (b-2) If the defendant fails to complete community service
7 required under this article by the date specified under Subsection
8 (b), the amount of the fine or costs that remains unpaid on that
9 date is automatically reinstated and due.

10 SECTION 6. Article 45.0491, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
13 INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless
14 of whether the court is a court of record, or a justice court may
15 waive payment of a fine or costs imposed on a defendant [~~who~~
16 ~~defaults in payment~~] if the court determines that:

17 (1) the defendant is indigent or was, at the time the
18 offense was committed, a child 18 years or younger at the time of
19 the offense [~~as defined by Article 45.058(h)~~]; and

20 (2) discharging the fine and costs under Article
21 45.049 or as otherwise authorized by this chapter would impose an
22 undue hardship on the defendant.

23 SECTION 7. The changes in law made by this Act apply to a
24 sentencing proceeding that commences before, on, or after the
25 effective date of this Act.

26 SECTION 8. This Act takes effect September 1, 2017.

ADOPTED

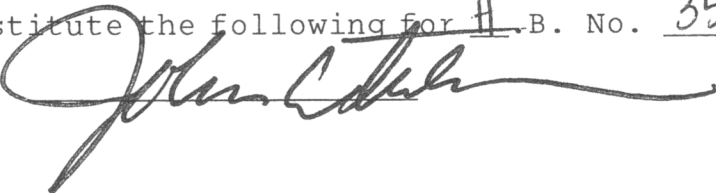
MAY 24 2017

Lataj Saw
Secretary of the Senate

By: Hinojosa

H.B. No. 351

Substitute the following for H.B. No. 351:

By: 

C.S. H.B. No. 351

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administrative, civil, and criminal consequences,
3 including fines, fees, and costs, imposed on persons arrested for,
4 charged with, or convicted of certain criminal offenses.

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

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

8 (b) A peace officer who is charging a person, including a
9 child, with committing an offense that is a Class C misdemeanor,
10 other than an offense under Section 49.02, Penal Code, may, instead
11 of taking the person before a magistrate, issue a citation to the
12 person that contains:

13 (1) written notice of the time and place the person
14 must appear before a magistrate;

15 (2) [] the name and address of the person charged;

16 (3) [] the offense charged;

17 (4) information regarding the alternatives to the full
18 payment of any fine or costs assessed against the person, if the
19 person is convicted of the offense and is unable to pay that
20 amount; [] and

21 (5) the following admonishment, in boldfaced or
22 underlined type or in capital letters:

23 "If you are convicted of a misdemeanor offense involving
24 violence where you are or were a spouse, intimate partner, parent,

1 or guardian of the victim or are or were involved in another,
2 similar relationship with the victim, it may be unlawful for you to
3 possess or purchase a firearm, including a handgun or long gun, or
4 ammunition, pursuant to federal law under 18 U.S.C. Section
5 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
6 questions whether these laws make it illegal for you to possess or
7 purchase a firearm, you should consult an attorney."

8 SECTION 2. Section 4(a), Article 17.42, Code of Criminal
9 Procedure, is amended to read as follows:

10 (a) Except as otherwise provided by this subsection, if ~~if~~
11 a court releases an accused on personal bond on the recommendation
12 of a personal bond office, the court shall assess a personal bond
13 fee of \$20 or three percent of the amount of the bail fixed for the
14 accused, whichever is greater. The court may waive the fee or
15 assess a lesser fee if good cause is shown. A court that requires a
16 defendant to give a personal bond under Article 45.016 may not
17 assess a personal bond fee under this subsection.

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

20 (b) A defendant charged with a misdemeanor for which the
21 maximum possible punishment is by fine only may, in lieu of the
22 method provided in Subsection (a) [~~of this article~~], mail or
23 deliver in person to the court a plea of "guilty" or a plea of "nolo
24 contendere" and a waiver of jury trial. The defendant may also
25 request in writing that the court notify the defendant, at the
26 address stated in the request, of the amount of an appeal bond that
27 the court will approve. If the court receives a plea and waiver

1 before the time the defendant is scheduled to appear in court, the
2 court shall dispose of the case without requiring a court
3 appearance by the defendant. If the court receives a plea and
4 waiver after the time the defendant is scheduled to appear in court
5 but at least five business days before a scheduled trial date, the
6 court shall dispose of the case without requiring a court
7 appearance by the defendant. The court shall notify the defendant
8 either in person or by regular [~~certified~~] mail[~~, return receipt~~
9 ~~requested,~~] of the amount of any fine or costs assessed in the case,
10 information regarding the alternatives to the full payment of any
11 fine or costs assessed against the defendant, if the defendant is
12 unable to pay that amount, and, if requested by the defendant, the
13 amount of an appeal bond that the court will approve. Except as
14 otherwise provided by this code, the [~~The~~] defendant shall pay any
15 fine or costs assessed or give an appeal bond in the amount stated
16 in the notice before the 31st day after receiving the notice.

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

20 (a-1) Notwithstanding any other provision of this article,
21 immediately after imposing a sentence in a case in which the
22 defendant entered a plea in open court as provided by Article 27.13,
23 27.14(a), or 27.16(a), a court shall inquire whether the defendant
24 has sufficient resources or income to immediately pay all or part of
25 the fine and costs. If the court determines that the defendant does
26 not have sufficient resources or income to immediately pay all or
27 part of the fine and costs, the court shall determine whether the

1 fine and costs should be:

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

4 (2) discharged by performing community service under,
5 as applicable, Article 43.09(f), Article 45.049, Article 45.0492,
6 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
7 Regular Session, 2011, or Article 45.0492, as added by Chapter 777
8 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;

9 (3) waived in full or in part under Article 43.091 or
10 45.0491; or

11 (4) satisfied through any combination of methods under
12 Subdivisions (1)-(3).

13 (b) Subject to Subsections (c) and (d) and Article 43.091,
14 when imposing a fine and costs, a court may direct a defendant:

15 (1) to pay the entire fine and costs when sentence is
16 pronounced;

17 (2) to pay the entire fine and costs at some later
18 date; or

19 (3) to pay a specified portion of the fine and costs at
20 designated intervals.

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

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

25 (1) the court must provide by regular mail to the
26 defendant notice that includes:

27 (A) a statement that the defendant has failed to

1 satisfy the judgment according to its terms; and

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

5 (2) either:

6 (A) the defendant fails to appear at the hearing;
7 or

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

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

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

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

16 SECTION 6. Article 43.09, Code of Criminal Procedure, is
17 amended by amending Subsections (a), (g), (h), (j), and (l) and
18 adding Subsection (h-1) to read as follows:

19 (a) When a defendant is convicted of a misdemeanor and the
20 defendant's [~~his~~] punishment is assessed at a pecuniary fine or is
21 confined in a jail after conviction of a felony for which a fine is
22 imposed, if the defendant [~~he~~] is unable to pay the fine and costs
23 adjudged against the defendant [~~him~~], the defendant [~~he~~] may for
24 such time as will satisfy the judgment be put to work in the county
25 jail industries program, in the workhouse, or on the county farm, or
26 public improvements and maintenance projects of the county or a
27 political subdivision located in whole or in part in the county, as

1 provided in Article 43.10 [~~the succeeding article~~]; or if there is
2 [~~be~~] no such county jail industries program, workhouse, farm, or
3 improvements and maintenance projects, the defendant [~~he~~] shall be
4 confined in jail for a sufficient length of time to discharge the
5 full amount of fine and costs adjudged against the defendant [~~him~~];
6 rating such confinement at \$100 [~~\$50~~] for each day and rating such
7 labor at \$100 [~~\$50~~] for each day; provided, however, that the
8 defendant may pay the pecuniary fine assessed against the defendant
9 [~~him~~] at any time while the defendant [~~he~~] is serving at work in the
10 county jail industries program, in the workhouse, or on the county
11 farm, or on the public improvements and maintenance projects of the
12 county or a political subdivision located in whole or in part in the
13 county, or while the defendant [~~he~~] is serving the defendant's
14 [~~his~~] jail sentence, and in such instances the defendant is [~~he~~
15 ~~shall be~~] entitled to the credit [~~he has~~] earned under this
16 subsection during the time that the defendant [~~he~~] has served and
17 the defendant [~~he~~] shall only be required to pay the [~~his~~] balance
18 of the pecuniary fine assessed against the defendant [~~him~~]. A
19 defendant who performs labor under this article during a day in
20 which the defendant [~~he~~] is confined is entitled to both the credit
21 for confinement and the credit for labor provided by this article.

22 (g) In the court's [~~its~~] order requiring a defendant to
23 perform [~~participate in~~] community service [~~work~~] under Subsection
24 (f) [~~of this article~~], the court must specify:

25 (1) the number of hours of community service the
26 defendant is required to perform [~~work~~]; [~~and~~]

27 (2) whether the community supervision and corrections

1 department or a court-related services office will perform the
2 administrative duties required by the placement of the defendant in
3 the community service program; and

4 (3) the date by which the defendant must submit to the
5 court documentation verifying the defendant's completion of the
6 community service.

7 (h) The court may order the defendant to perform community
8 service [~~work~~] under Subsection (f):

9 (1) by attending:

10 (A) a work and job skills training program;

11 (B) a preparatory class for the high school
12 equivalency examination administered under Section 7.111,
13 Education Code;

14 (C) an alcohol or drug abuse program;

15 (D) a rehabilitation program;

16 (E) a counseling program, including a
17 self-improvement program;

18 (F) a mentoring program; or

19 (G) any similar activity; or

20 (2) [~~of this article only~~] for:

21 (A) a governmental entity;

22 (B) [~~or~~] a nonprofit organization or another
23 organization that provides services to the general public that
24 enhance social welfare and the general well-being of the community,
25 as determined by the court; or

26 (C) an educational institution.

27 (h-1) An [A—governmental] entity [or—nonprofit

1 ~~organization~~] that accepts a defendant under Subsection (f) [~~of~~
2 ~~this article~~] to perform community service must agree to supervise,
3 either on-site or remotely, the defendant in the performance of the
4 defendant's community service [~~work~~] and report on the defendant's
5 community service [~~work~~] to the district probation department or
6 court-related services office.

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

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

22 (1) was performed pursuant to confinement or other
23 court order; and

24 (2) was not intentional, wilfully or wantonly
25 negligent, or performed with conscious indifference or reckless
26 disregard for the safety of others.

27 SECTION 7. Article 43.091, Code of Criminal Procedure, is

1 amended to read as follows:

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

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

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

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

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

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

20 (A) a date and time when the defendant must
21 appear before the justice or judge;

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

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

27 (D) an explanation of the consequences if the

1 defendant fails to appear before the justice or judge as required by
2 this article; and

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

5 (f) A defendant who receives notice under Subsection (e) may
6 request an alternative date or time to appear before the justice or
7 judge if the defendant is unable to appear on the date and time
8 included in the notice.

9 (g) A justice or judge shall recall an arrest warrant for
10 the defendant's failure to appear if, before the arrest warrant is
11 executed:

12 (1) the defendant voluntarily appears to resolve the
13 arrest warrant; and

14 (2) the arrest warrant is resolved in any manner
15 authorized by this code.

16 SECTION 9. Article 45.016, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 45.016. PERSONAL BOND; BAIL BOND. (a) The justice or
19 judge may require the defendant to give a personal bond [~~bail~~] to
20 secure the defendant's appearance in accordance with this code.

21 (b) The justice or judge may not, either instead of or in
22 addition to the personal bond, require a defendant to give a bail
23 bond unless:

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

26 (2) the justice or judge determines that:

27 (A) the defendant has sufficient resources or

1 income to give a bail bond; and

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

4 (c) If a defendant required to give a bail bond under
5 Subsection (b) remains in custody, without giving the bond, for
6 more than 48 hours after the issuance of the applicable order, the
7 justice or judge shall reconsider the requirement for the defendant
8 to give the bond.

9 (d) If the defendant refuses to give a personal bond or,
10 except as provided by Subsection (c), refuses or otherwise fails to
11 give a bail bond, the defendant may be held in custody.

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

15 (a-1) Notwithstanding any other provision of this article,
16 immediately after imposing a sentence in a case in which the
17 defendant entered a plea in open court as provided by Article
18 27.14(a) or 27.16(a), the justice or judge shall inquire whether
19 the defendant has sufficient resources or income to immediately pay
20 all or part of the fine and costs. If the justice or judge
21 determines that the defendant does not have sufficient resources or
22 income to immediately pay all or part of the fine and costs, the
23 justice or judge shall determine whether the fine and costs should
24 be:

25 (1) required to be paid at some later date or in a
26 specified portion at designated intervals;

27 (2) discharged by performing community service under,

1 as applicable, Article 45.049, Article 45.0492, as added by Chapter
2 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session,
3 2011, or Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts
4 of the 82nd Legislature, Regular Session, 2011;

5 (3) waived in full or in part under Article 45.0491; or
6 (4) satisfied through any combination of methods under
7 Subdivisions (1)-(3).

8 (b) Subject to Subsections (b-2) and (b-3) and Article
9 45.0491, the justice or judge may direct the defendant:

10 (1) to pay:

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

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

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

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

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

20 SECTION 11. Article 45.0425(a), Code of Criminal Procedure,
21 is amended to read as follows:

22 (a) If the court from whose judgment and sentence the appeal
23 is taken is in session, the court must approve the bail. The amount
24 of an appeal [~~a bail~~] bond may not be less than two times the amount
25 of the fine and costs adjudged against the defendant, payable to the
26 State of Texas. The appeal bond [~~bail~~] may not in any case be for an
27 amount [~~a sum~~] less than \$50. If the appeal bond otherwise meets

1 the requirements of this code, the court without requiring a court
2 appearance by the defendant shall approve the appeal bond in the
3 amount the court under Article 27.14(b) notified the defendant
4 would be approved.

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

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

9 (1) the court must provide by regular mail to the
10 defendant notice that includes:

11 (A) a statement that the defendant has failed to
12 satisfy the judgment according to its terms; and

13 (B) a date and time when the court will hold a
14 hearing on the defendant's failure to satisfy the judgment
15 according to its terms; and

16 (2) either:

17 (A) the defendant fails to appear at the hearing;
18 or

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

21 (a-3) 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

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

27 SECTION 13. Article 45.046(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) When a judgment and sentence have been entered against a
3 defendant and the defendant defaults in the discharge of the
4 judgment, the judge may order the defendant confined in jail until
5 discharged by law if the judge at a hearing makes a written
6 determination that:

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

9 (2) the defendant is indigent and:

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

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

14 SECTION 14. Article 45.048, Code of Criminal Procedure, is
15 amended to read as follows:

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

19 (1) is too poor to pay the fine and costs; or

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

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

1 costs.

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

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

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

10 (2) the date by which the defendant must submit to the
11 court documentation verifying the defendant's completion of the
12 community service [~~work~~].

13 (c) The justice or judge may order the defendant to perform
14 community service [~~work~~] under this article:

15 (1) by attending:

16 (A) a work and job skills training program;

17 (B) a preparatory class for the high school
18 equivalency examination administered under Section 7.111,
19 Education Code;

20 (C) an alcohol or drug abuse program;

21 (D) a rehabilitation program;

22 (E) a counseling program, including a
23 self-improvement program;

24 (F) a mentoring program; or

25 (G) any similar activity; or

26 (2) [~~only~~] for:

27 (A) a governmental entity;

1 (B) [~~or~~] a nonprofit organization or another
2 organization that provides services to the general public that
3 enhance social welfare and the general well-being of the community,
4 as determined by the justice or judge; or

5 (C) an educational institution.

6 (c-1) An [A—governmental] entity [~~or—nonprofit~~
7 ~~organization~~] that accepts a defendant under this article to
8 perform community service must agree to supervise, either on-site
9 or remotely, the defendant in the performance of the defendant's
10 community service [~~work~~] and report on the defendant's community
11 service [~~work~~] to the justice or judge who ordered the [~~community~~]
12 service.

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

18 (e) A defendant is considered to have discharged not less
19 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
20 service performed under this article.

21 (f) A sheriff, employee of a sheriff's department, county
22 commissioner, county employee, county judge, justice of the peace,
23 municipal court judge, or officer or employee of a political
24 subdivision other than a county or an entity that accepts a
25 defendant under this article to perform community service is not
26 liable for damages arising from an act or failure to act in
27 connection with community service [~~manual labor~~] performed by a

1 defendant under this article if the act or failure to act:

2 (1) was performed pursuant to court order; and

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

6 (g) This subsection applies only to a defendant who is
7 charged with a traffic offense or an offense under Section 106.05,
8 Alcoholic Beverage Code, and is a resident of this state. If under
9 Article 45.051(b)(10), Code of Criminal Procedure, the judge
10 requires the defendant to perform community service as a condition
11 of the deferral, the defendant is entitled to elect whether to
12 perform the required [~~governmental entity or nonprofit~~
13 ~~organization community~~] service in:

14 (1) the county in which the court is located; or

15 (2) the county in which the defendant resides, but
16 only if the applicable entity [~~or organization~~] agrees to:

17 (A) supervise, either on-site or remotely, the
18 defendant in the performance of the defendant's community service
19 [~~work~~]; and

20 (B) report to the court on the defendant's
21 community service [~~work~~].

22 SECTION 16. Article 45.0491, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR
25 CERTAIN [~~INDIGENT~~] DEFENDANTS AND FOR CHILDREN. A municipal court,
26 regardless of whether the court is a court of record, or a justice
27 court may waive payment of all or part of a fine or costs imposed on

1 a defendant [~~who defaults in payment~~] if the court determines that:

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

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

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

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

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

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

27 (c) In the justice's or judge's order requiring a defendant

1 to perform [~~participate in~~] community service [~~work or a tutoring~~
2 ~~program~~] under this article, the justice or judge must specify:

3 (1) the number of hours of community service the
4 defendant is required to perform; and

5 (2) the date by which the defendant must submit to the
6 court documentation verifying the defendant's completion of the
7 community service [~~work or attend tutoring~~].

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

10 (1) by attending:

11 (A) a work and job skills training program;

12 (B) a preparatory class for the high school
13 equivalency examination administered under Section 7.111,
14 Education Code;

15 (C) an alcohol or drug abuse program;

16 (D) a rehabilitation program;

17 (E) a counseling program, including a
18 self-improvement program;

19 (F) a mentoring program;

20 (G) a tutoring program; or

21 (H) any similar activity; or

22 (2) [~~only~~] for:

23 (A) a governmental entity;

24 (B) [~~or~~] a nonprofit organization or another
25 organization that provides services to the general public that
26 enhance social welfare and the general well-being of the community,
27 as determined by the justice or judge; or

1 (C) an educational institution.

2 (d-1) An [A ~~governmental~~] entity [or ~~nonprofit~~
3 ~~organization~~] that accepts a defendant under this article to
4 perform community service must agree to supervise, either on-site
5 or remotely, the defendant in the performance of the defendant's
6 community service [~~work~~] and report on the defendant's community
7 service [~~work~~] to the justice or judge who ordered the [~~community~~]
8 service.

9 (f) A justice or judge may not order a defendant to perform
10 more than 16 hours of community service per week [~~or attend more~~
11 ~~than 16 hours of tutoring per week~~] under this article unless the
12 justice or judge determines that requiring the defendant to perform
13 additional hours [~~of work or tutoring~~] does not impose an undue
14 [~~cause a~~] hardship on the defendant or the defendant's family. For
15 purposes of this subsection, "family" has the meaning assigned by
16 Section 71.003, Family Code.

17 (g) A defendant is considered to have discharged not less
18 than \$100 [~~\$50~~] of fines or costs for each eight hours of community
19 service performed [~~or tutoring program attended~~] under this
20 article.

21 (h) A sheriff, employee of a sheriff's department, county
22 commissioner, county employee, county judge, justice of the peace,
23 municipal court judge, or officer or employee of a political
24 subdivision other than a county or an entity that accepts a
25 defendant under this article to perform community service[~~r~~
26 ~~nonprofit organization, or tutoring program~~] is not liable for
27 damages arising from an act or failure to act in connection with

1 community service [~~an activity~~] performed by a defendant under this
2 article if the act or failure to act:

3 (1) was performed pursuant to court order; and

4 (2) was not intentional, grossly negligent, or
5 performed with conscious indifference or reckless disregard for the
6 safety of others.

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

12 (c) In the justice's or judge's order requiring a defendant
13 to perform community service under this article, the justice or
14 judge shall specify:

15 (1) the number of hours of community service the
16 defendant is required to perform, [~~and may~~] not to exceed [~~order~~
17 ~~more than~~] 200 hours; and

18 (2) the date by which the defendant must submit to the
19 court documentation verifying the defendant's completion of the
20 community service.

21 (d) The justice or judge may order the defendant to perform
22 community service [~~work~~] under this article:

23 (1) by attending:

24 (A) a work and job skills training program;

25 (B) a preparatory class for the high school
26 equivalency examination administered under Section 7.111,
27 Education Code;

- 1 (C) an alcohol or drug abuse program;
2 (D) a rehabilitation program;
3 (E) a counseling program, including a
4 self-improvement program;
5 (F) a mentoring program; or
6 (G) any similar activity; or
7 (2) [only] for:
8 (A) a governmental entity;
9 (B) [or] a nonprofit organization or another
10 organization that provides services to the general public that
11 enhance social welfare and the general well-being of the community,
12 as determined by the justice or judge; or
13 (C) an educational institution.

14 (d-1) An [A—governmental] entity [or—nonprofit
15 organization] that accepts a defendant under this article to
16 perform community service must agree to supervise, either on-site
17 or remotely, the defendant in the performance of the defendant's
18 community service [work] and report on the defendant's community
19 service [work] to the justice or judge who ordered the [community]
20 service.

21 (e) A justice or judge may not order a defendant to perform
22 more than 16 hours of community service per week under this article
23 unless the justice or judge determines that requiring the defendant
24 to perform additional hours [of work] does not impose an undue
25 [cause a] hardship on the defendant or the defendant's family. For
26 purposes of this subsection, "family" has the meaning assigned by
27 Section 71.003, Family Code.

1 (f) A sheriff, employee of a sheriff's department, county
2 commissioner, county employee, county judge, justice of the peace,
3 municipal court judge, or officer or employee of a political
4 subdivision other than a county or an entity that accepts a
5 defendant under this article to perform community service is not
6 liable for damages arising from an act or failure to act in
7 connection with community service performed by a defendant under
8 this article if the act or failure to act:

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

10 (2) was not intentional, wilfully or wantonly
11 negligent, or performed with conscious indifference or reckless
12 disregard for the safety of others.

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

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

18 (a) On a plea of guilty or nolo contendere by a defendant or
19 on a finding of guilt in a misdemeanor case punishable by fine only
20 and payment of all court costs, the judge may defer further
21 proceedings without entering an adjudication of guilt and place the
22 defendant on probation for a period not to exceed 180 days. In
23 issuing the order of deferral, the judge may impose a special
24 expense fee on the defendant in an amount not to exceed the amount
25 of the fine that could be imposed on the defendant as punishment for
26 the offense. The special expense fee may be collected at any time
27 before the date on which the period of probation ends. The judge

1 may elect not to impose the special expense fee for good cause shown
2 by the defendant. If the judge orders the collection of a special
3 expense fee, the judge shall require that the amount of the special
4 expense fee be credited toward the payment of the amount of the fine
5 imposed by the judge. An order of deferral under this subsection
6 terminates any liability under a [~~bail bond or an appearance~~] bond
7 given for the charge.

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

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

13 SECTION 22. Article 103.0031(j), Code of Criminal
14 Procedure, is amended to read as follows:

15 (j) A communication to the accused person regarding the
16 amount of payment that is acceptable to the court under the court's
17 standard policy for resolution of a case must include:

18 (1) a notice of the person's right to enter a plea or go
19 to trial on any offense charged; and

20 (2) a statement that, if the person is unable to pay
21 the full amount of payment that is acceptable to the court, the
22 person should contact the court regarding the alternatives to full
23 payment that are available to resolve the case.

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

27 (a) Except as otherwise provided by this section, a [A]

1 county assessor-collector or the department may refuse to register
2 a motor vehicle if the assessor-collector or the department
3 receives information that the owner of the vehicle:

4 (1) owes the county money for a fine, fee, or tax that
5 is past due; or

6 (2) failed to appear in connection with a complaint,
7 citation, information, or indictment in a court in the county in
8 which a criminal proceeding is pending against the owner.

9 (b-1) Information that is provided to make a determination
10 under Subsection (a)(1) and that concerns the past due status of a
11 fine or fee imposed for a criminal offense and owed to the county
12 expires on the second anniversary of the date the information was
13 provided and may not be used to refuse registration after that date.
14 Once information about a past due fine or fee is provided under
15 Subsection (b), subsequent information about other fines or fees
16 that are imposed for a criminal offense and that become past due
17 before the second anniversary of the date the initial information
18 was provided may not be used, either before or after the second
19 anniversary of that date, to refuse registration under this section
20 unless the motor vehicle is no longer subject to refusal of
21 registration because of notice received under Subsection (c).

22 (c) A county that has a contract under Subsection (b) shall
23 notify the department regarding a person for whom the county
24 assessor-collector or the department has refused to register a
25 motor vehicle on:

26 (1) the person's payment or other means of discharge,
27 including a waiver, of the past due fine, fee, or tax; or

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

3 (i) A municipal court judge or justice of the peace who has
4 jurisdiction over the underlying offense may waive an additional
5 fee imposed under Subsection (f) if the judge or justice makes a
6 finding that the defendant is economically unable to pay the fee or
7 that good cause exists for the waiver.

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

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

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

20 (1) a person who fails to pay a fine, fee, or tax to the
21 county by the date on which the fine, fee, or tax is due; or

22 (2) a person who fails to appear in connection with a
23 complaint, citation, information, or indictment in a court in which
24 a criminal proceeding is pending against the owner. [~~The~~
25 ~~additional fee may be used only to reimburse the department or the~~
26 ~~county for its expenses for providing services under the contract.~~]

27 SECTION 25. Section 706.005, Transportation Code, is

1 amended to read as follows:

2 Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) A
3 political subdivision shall immediately notify the department that
4 there is no cause to continue to deny renewal of a person's driver's
5 license based on the person's previous failure to appear or failure
6 to pay or satisfy a judgment ordering the payment of a fine and cost
7 in the manner ordered by the court in a matter involving an offense
8 described by Section 706.002(a), on payment of a fee as provided by
9 Section 706.006 and:

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

12 (2) the dismissal of the charge for which the warrant
13 of arrest was issued or judgment arose, other than a dismissal with
14 prejudice by motion of the appropriate prosecuting attorney for
15 lack of evidence;

16 (3) the posting of bond or the giving of other security
17 to reinstate the charge for which the warrant was issued;

18 (4) the payment or discharge of the fine and cost owed
19 on an outstanding judgment of the court; or

20 (5) other suitable arrangement to pay the fine and
21 cost within the court's discretion.

22 (b) The department may not continue to deny the renewal of
23 the person's driver's license under this chapter after the
24 department receives notice:

25 (1) under Subsection (a);

26 (2) that the person was acquitted of the charge on
27 which the person failed to appear;

1 (3) that the charge on which the person failed to
2 appear was dismissed with prejudice by motion of the appropriate
3 prosecuting attorney for lack of evidence; or

4 (4) [~~3~~] from the political subdivision that the
5 failure to appear report or court order to pay a fine or cost
6 relating to the person:

7 (A) was sent to the department in error; or

8 (B) has been destroyed in accordance with the
9 political subdivision's records retention policy.

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

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

18 (1) the person is acquitted of the charges for which
19 the person failed to appear;

20 (2) the charges on which the person failed to appear
21 were dismissed with prejudice by motion of the appropriate
22 prosecuting attorney for lack of evidence;

23 (3) the failure to appear report was sent to the
24 department in error; or

25 (4) the case regarding the complaint or citation is
26 closed and the failure to appear report has been destroyed in
27 accordance with the applicable political subdivision's records

1 retention policy.

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

4 (1) the court enters judgment on the underlying
5 offense reported to the department;

6 (2) the underlying offense is dismissed, other than a
7 dismissal described by Subsection (a)(2); or

8 (3) bond or other security is posted to reinstate the
9 charge for which the warrant was issued.

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

14 (d) If the court having jurisdiction over the underlying
15 offense makes a finding that the person is indigent, the person may
16 not be required to pay an administrative fee under this section.
17 For purposes of this subsection, a person is presumed to be indigent
18 if the person:

19 (1) is required to attend school full time under
20 Section 25.085, Education Code;

21 (2) is a member of a household with a total annual
22 income that is below 125 percent of the applicable income level
23 established by the federal poverty guidelines; or

24 (3) receives assistance from:

25 (A) the financial assistance program established
26 under Chapter 31, Human Resources Code;

27 (B) the medical assistance program under Chapter

1 32, Human Resources Code;

2 (C) the supplemental nutrition assistance
3 program established under Chapter 33, Human Resources Code;

4 (D) the federal special supplemental nutrition
5 program for women, infants, and children authorized by 42 U.S.C.
6 Section 1786; or

7 (E) the child health plan program under Chapter
8 62, Health and Safety Code.

9 SECTION 27. Article 45.0492(e), Code of Criminal Procedure,
10 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
11 Regular Session, 2011, is repealed.

12 SECTION 28. The changes in law made by this Act to Articles
13 14.06 and 27.14, Code of Criminal Procedure, and Section 502.010
14 and Chapter 706, Transportation Code, apply only to an offense
15 committed on or after the effective date of this Act. An offense
16 committed before the effective date of this Act is governed by the
17 law in effect on the date the offense was committed, and the former
18 law is continued in effect for that purpose. For purposes of this
19 section, an offense was committed before the effective date of this
20 Act if any element of the offense occurred before that date.

21 SECTION 29. The changes in law made by this Act to Articles
22 42.15, 43.09, 43.091, 45.014, 45.041, 45.046, 45.049, and 45.0491,
23 Code of Criminal Procedure, and Articles 45.0492, Code of Criminal
24 Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd
25 Legislature, Regular Session, 2011, and 45.0492, Code of Criminal
26 Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd
27 Legislature, Regular Session, 2011, apply to a sentencing

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

3 SECTION 30. The change in law made by this Act to Articles
4 43.05 and 45.045, Code of Criminal Procedure, applies only to a
5 capias pro fine issued on or after the effective date of this Act. A
6 capias pro fine issued before the effective date of this Act is
7 governed by the law in effect on the date the capias pro fine was
8 issued, and the former law is continued in effect for that purpose.

9 SECTION 31. The changes in law made by this Act to Articles
10 45.016, 45.051, and 45.0511, Code of Criminal Procedure, apply only
11 to a bond executed on or after the effective date of this Act. A
12 bond executed before the effective date of this Act is governed by
13 the law in effect when the bond was executed, and the former law is
14 continued in effect for that purpose.

15 SECTION 32. The change in law made by this Act to Article
16 45.048, Code of Criminal Procedure, applies to a defendant who is
17 placed in jail on or after the effective date of this Act for
18 failure to pay the fine and costs imposed on conviction of an
19 offense, regardless of whether the offense for which the defendant
20 was convicted was committed before, on, or after the effective date
21 of this Act.

22 SECTION 33. This Act takes effect September 1, 2017.

ADOPTED
VV

MAY 24 2017

Henry Adams
Speaker of the Senate

FLOOR AMENDMENT NO. 1

BY:

Tafferini

1 Amend C.S.H.B. 351 (senate committee printing) as follows:

2 (1) Insert "during or" in each of the following places:

3 (A) SECTION 4 of the bill, in added Article 42.15(a-
4 1), Code of Criminal Procedure (page 2, line 30), after the
5 underlined comma; and

6 (B) SECTION 10 of the bill, in added Article 45.041(a-
7 1), Code of Criminal Procedure (page 5, line 34), after the
8 underlined comma.

9 (2) In SECTION 8 of the bill, in added Article 45.014(e),
10 Code of Criminal Procedure (page 4, line 50), between "the
11 defendant's failure to appear" and the underlined comma, insert
12 "at the initial court setting".

ADOPTED

MAY 24 2017

FLOOR AMENDMENT NO. 2

BY: Whitmore

John C. ...
Secretary of the Senate

1 Amend H.B. No. 351 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____. (a) Article 42A.602(a), Code of Criminal
5 Procedure, is amended to read as follows:

6 (a) If a judge requires as a condition of community
7 supervision or participation in a pretrial intervention program
8 operated under Section 76.011, Government Code, or a drug court
9 program established under Chapter 123, Government Code, or
10 former law that the defendant serve a term of confinement in a
11 community corrections facility, the term may not exceed 24
12 months.

13 (b) Article 42A.604(a), Code of Criminal Procedure, is
14 amended to read as follows:

15 (a) As directed by the judge, the community corrections
16 facility director shall file with the community supervision and
17 corrections department director or administrator of a drug court
18 program, as applicable, a copy of an evaluation made by the
19 facility director of the defendant's behavior and attitude at
20 the facility. The community supervision and corrections
21 department director or program administrator shall examine the
22 evaluation, make written comments on the evaluation that the
23 director or administrator considers relevant, and file the
24 evaluation and comments with the judge who granted community
25 supervision to the defendant or placed the defendant in a
26 pretrial intervention program or drug court program. If the
27 evaluation indicates that the defendant has made significant
28 progress toward compliance with court-ordered conditions of
29 community supervision or objectives of placement in the [drug

1 ~~court~~] program, as applicable, the judge may release the
2 defendant from the community corrections facility. A defendant
3 who served a term in the facility as a condition of community
4 supervision shall serve the remainder of the defendant's
5 community supervision under any terms and conditions the court
6 imposes under this chapter.

7 (c) Section 509.001(1), Government Code, is amended to
8 read as follows:

9 (1) "Community corrections facility" means a physical
10 structure, established by the judges described by Section 76.002
11 after authorization of the establishment of the structure has
12 been included in a department's strategic plan, that is operated
13 by the department or operated for the department by an entity
14 under contract with the department, for the purpose of treating
15 persons who have been placed on community supervision or who are
16 participating in a pretrial intervention program operated under
17 Section 76.011 or a drug court program established under Chapter
18 123 or former law and providing services and programs to modify
19 criminal behavior, deter criminal activity, protect the public,
20 and restore victims of crime. The term includes:

- 21 (A) a restitution center;
- 22 (B) a court residential treatment facility;
- 23 (C) a substance abuse treatment facility;
- 24 (D) a custody facility or boot camp;
- 25 (E) a facility for an offender with a mental
26 impairment, as defined by Section 614.001, Health and Safety
27 Code; and
- 28 (F) an intermediate sanction facility.

29 (d) The change in law made by this section applies only to
30 a person placed in a pretrial intervention program operated
31 under Section 76.011, Government Code, for an offense committed

1 on or after the effective date of this Act. A person placed in
2 a pretrial intervention program operated under Section 76.011,
3 Government Code, for an offense committed before the effective
4 date of this Act is governed by the law in effect on the date
5 the offense was committed, and the former law is continued in
6 effect for that purpose. For purposes of this subsection, an
7 offense was committed before the effective date of this Act if
8 any element of the offense was committed before that date.

ADOPTED

MAY 24 2017

FLOOR AMENDMENT NO. 3

Haley Spaul
Secretary of the Senate

BY:

Yonni Burton

1 Amend H.B. No. 351 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill accordingly:

4 SECTION _____. (a) A commission is created to study and
5 review all penal laws of this state other than criminal
6 offenses:

- 7 (1) under the Penal Code;
8 (2) under Chapter 481, Health and Safety Code; or
9 (3) related to the operation of a motor vehicle.

10 (b) The commission shall:

11 (1) evaluate all laws described by Subsection (a) of
12 this section;

13 (2) make recommendations to the legislature regarding
14 the repeal or amendment of laws that are identified as being
15 unnecessary, unclear, duplicative, overly broad, or otherwise
16 insufficient to serve the intended purpose of the law, including
17 the laws identified by the commission created by Section 29,
18 Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
19 Session, 2015, as requiring additional review; and

20 (3) evaluate the recommendations made by the
21 commission created by Section 29, Chapter 1251 (H.B. 1396), Acts
22 of the 84th Legislature, Regular Session, 2015.

23 (c) The commission is composed of nine members appointed
24 as follows:

- 25 (1) two members appointed by the governor;
26 (2) two members appointed by the lieutenant governor;
27 (3) two members appointed by the speaker of the house
28 of representatives;

29 (4) two members appointed by the chief justice of the

1 Supreme Court of Texas; and

2 (5) one member appointed by the presiding judge of
3 the Texas Court of Criminal Appeals.

4 (d) The officials making appointments to the commission
5 under Subsection (c) of this section shall ensure that the
6 membership of the commission includes representatives of all
7 areas of the criminal justice system, including prosecutors,
8 defense attorneys, judges, legal scholars, and relevant business
9 interests.

10 (e) The governor shall designate one member of the
11 commission to serve as the presiding officer of the commission.

12 (f) A member of the commission is not entitled to
13 compensation or reimbursement of expenses.

14 (g) The commission shall meet at the call of the presiding
15 officer.

16 (h) Not later than November 1, 2018, the commission shall
17 report the commission's findings and recommendations to the
18 governor, the lieutenant governor, the speaker of the house of
19 representatives, the Supreme Court of Texas, the Texas Court of
20 Criminal Appeals, and the standing committees of the house of
21 representatives and the senate with primary jurisdiction over
22 criminal justice. The commission shall include in its
23 recommendations any specific statutes that the commission
24 recommends repealing or amending.

25 (i) Not later than the 60th day after the effective date
26 of this Act, the governor, the lieutenant governor, the speaker
27 of the house of representatives, the chief justice of the
28 Supreme Court of Texas, and the presiding judge of the Texas
29 Court of Criminal Appeals shall appoint the members of the
30 commission created under this section.

31 (j) The commission is abolished and this section expires

1 December 31, 2018.

ADOPTED

MAY 24 2017

FLOOR AMENDMENT NO.

4

Adrian Spaw
Secretary of the Senate

Yorri Butler

1 Amend H.B. No. 351 by adding the following appropriately
2 numbered SECTIONS to the bill and renumbering the subsequent
3 SECTIONS of the bill appropriately:

4 SECTION ____ Article 102.0071, Code of Criminal Procedure,
5 is amended to read as follows:

6 Art. 102.0071. JUSTICE COURT DISHONORED CHECK OR SIMILAR
7 SIGHT ORDER. On conviction in justice court of an offense under
8 Section 32.41, Penal Code, or an offense under Section 31.03, ~~[or]~~
9 31.04, or 32.21, Penal Code, in which it is shown that the defendant
10 committed the offense by issuing, ~~[or]~~ passing, or forging a check
11 or similar sight order, as defined by Section 1.07, Penal Code, that
12 was subsequently dishonored, the court may collect from the
13 defendant and pay to the holder of the check or order the fee
14 permitted by Section 3.506, Business & Commerce Code.

15 SECTION ____ Section 32.21, Penal Code, is amended by
16 amending Subsections (d), (e), and (e-1) and adding Subsections
17 (e-2) and (g) to read as follows:

18 (d) Subject to Subsection (e-1), an ~~[An]~~ offense under this
19 section is a state jail felony if the writing is or purports to be a
20 will, codicil, deed, deed of trust, mortgage, security instrument,
21 security agreement, credit card, check, authorization to debit an
22 account at a financial institution, or similar sight order for
23 payment of money, contract, release, or other commercial
24 instrument.

25 (e) Subject to Subsection (e-1), an ~~[An]~~ offense under this
26 section is a felony of the third degree if the writing is or
27 purports to be:

28 (1) part of an issue of money, securities, postage or
29 revenue stamps;

1 (2) a government record listed in Section 37.01(2)(C);
2 or

3 (3) other instruments issued by a state or national
4 government or by a subdivision of either, or part of an issue of
5 stock, bonds, or other instruments representing interests in or
6 claims against another person.

7 (e-1) If it is shown on the trial of an offense under this
8 section that the actor engaged in the conduct to obtain or attempt
9 to obtain a property or service, an offense under this section is:

10 (1) a Class C misdemeanor if the value of the property
11 or service is less than \$100;

12 (2) a Class B misdemeanor if the value of the property
13 or service is \$100 or more but less than \$750;

14 (3) a Class A misdemeanor if the value of the property
15 or service is \$750 or more but less than \$2,500;

16 (4) a state jail felony if the value of the property or
17 service is \$2,500 or more but less than \$30,000;

18 (5) a felony of the third degree if the value of the
19 property or service is \$30,000 or more but less than \$150,000;

20 (6) a felony of the second degree if the value of the
21 property or service is \$150,000 or more but less than \$300,000; and

22 (7) a felony of the first degree if the value of the
23 property or service is \$300,000 or more.

24 (e-2) Notwithstanding any other provision of this section,
25 an [An] offense under this section, other than an offense described
26 for purposes of punishment by Subsection (e-1)(7), is increased to
27 the next higher category of offense if it is shown on the trial of
28 the offense that the offense was committed against an elderly
29 individual as defined by Section 22.04.

30 (g) If conduct that constitutes an offense under this
31 section also constitutes an offense under any other law, the actor

1 may be prosecuted under this section or the other law.

2 SECTION _____. The change in law made by this Act in amending
3 Article 102.0071, Code of Criminal Procedure, and Section 32.21,
4 Penal Code, applies only to an offense committed on or after the
5 effective date of this Act. An offense committed before the
6 effective date of this Act is governed by the law in effect when the
7 offense was committed, and the former law is continued in effect for
8 that purpose. For purposes of this section, an offense was
9 committed before the effective date of this Act if any element of
10 the offense occurred before that date.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 21, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

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.), **Committee Report 2nd House, Substituted**

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 and 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 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 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.

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, LCO, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 20, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the discharge or waiver of fines and costs imposed on indigent defendants; authorizing a fee.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a judge to order, at sentencing or any time thereafter, a defendant that is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service and includes additional requirements that includes allowing a judge to impose a reasonable administrative fee to cover the costs of administering and supervising a defendant's community supervision and automatic reinstatement of the unpaid amount if the defendant does not complete the community service by the date specified. The bill would also allow a judge to waive payment of a fine or costs imposed on a defendant or child who is indigent and discharging the fine or costs under any alternative method would impose an undue hardship on the defendant or child.

Based on information provided by the Office of Court Administration, no significant fiscal implication to the state is anticipated and revenues from the administrative fee would not be significant based on historical analysis of payments made by indigent individuals.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 5, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB351 by Canales (Relating to the discharge or waiver of fines and costs imposed on indigent defendants.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a judge to order, at sentencing or any time thereafter, a defendant that is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service. The bill would also allow a judge to waive payment of a fine or costs imposed on a defendant or child who is indigent and discharging the fine or costs under any alternative method would impose an undue hardship on the defendant or child.

Based on information provided by the Office of Court Administration, no significant fiscal implication to the state is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

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 provisions of the bill addressing felony sanctions are the subject of this analysis. 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 attempted 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.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. 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.

Source Agencies:

LBB Staff: UP, LM, JPo, RFL