

## **BILL ANALYSIS**

Senate Research Center

H.B. 569  
By: Sanford et al. (West)  
Criminal Justice  
5/3/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 569 seeks to address some of the financial barriers that persons who have been incarcerated may face after their release from confinement by enhancing the ability to receive credit for time served that would be applied to fine-only misdemeanor offenses.

Article 42.03, Section 2, Code of Criminal Procedure, requires courts to issue credit for time served by a defendant from the time of the defendant's arrest until the sentence is announced. Article 45.041, Code of Criminal Procedure, also requires a judge or justice to issue credit for time served for fine-only misdemeanor offenses. Article 45.041 also requires the courts to determine whether the defendant has the resources to pay fines and other costs owed to the state. The courts can also determine how the fines and costs will be satisfied by the defendant.

H.B. 569 amends current law to propose that a defendant receive credit for time served following the defendant's arrest until the defendant is sentenced at a daily rate of at least \$150 if the defendant was incarcerated for eight hours up to 24 hours.

H.B. 569 requires that in the notice sent to a defendant for failure to appear in court after receiving a citation, the defendant must also be notified that they may be eligible to receive credit for time served. The notice must be sent before a warrant is issued.

H.B. 569 also creates an additional time credit for a defendant who is arrested and is confined for an offense after receiving a citation for a misdemeanor offense. The time credit received under this provision would be at a rate of at least \$150 per day.

H.B. 569 amends current law relating to credit toward payment of a fine and costs for certain misdemeanants confined in jail or prison before sentencing.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 45.014(e), Code of Criminal Procedure, as added by Chapter 1127 (S.B. 1913), Acts of the 85th Legislature, Regular Session, 2017, as follows:

(e) Prohibits a justice or judge from issuing 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) (relating to authorizing a peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, to, instead of taking the person before a magistrate, issue a citation to the person that contains certain information about the individual), unless:

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

(A)-(C) makes no changes to these subdivisions;

(D) a statement that the defendant may be entitled to a credit toward any fine or costs owed by the defendant if the defendant was confined in jail or prison after the commission of the offense for which the notice is given; and

(E) creates this subdivision from existing text and makes no further changes.

SECTION 2. Amends Article 45.041, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires that the credit under this subsection, rather than the credit, for time served in jail be applied to the amount of the fine and costs at the rate provided by Article 45.048 (Discharged From Jail).

(c-1) Requires the justice or judge, in addition to credit under Subsection (c), in imposing a fine and costs in a case involving a misdemeanor punishable by a fine only, to credit the defendant for any time the defendant was confined in jail or prison while serving a sentence for another offense if that confinement occurred after the commission of the misdemeanor. Requires that the credit under this subsection be applied to the amount of the fine and costs at the rate of not less than \$150 for each day of confinement.

SECTION 3. Amends Article 45.048, Code of Criminal Procedure, as follows:

Art. 45.048. DISCHARGED FROM JAIL. (a) Requires a defendant placed in jail on account of failure to pay the fine and costs to be discharged on habeas corpus by showing that the defendant has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$150, rather than not less than \$100, for each period served, as specified by the convicting court in the judgment in the case.

(b) Authorizes a convicting court to specify a period that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fine and costs in the case must remain in jail to satisfy \$150, rather than \$100, of the fine and costs.

SECTION 4. Repealer: Article 45.014(e) (relating to prohibiting a justice or judge from issuing an arrest warrant for a defendant's failure to appear at the initial court setting, including failure to appear as required by certain citation, unless certain notice is given and the defendant fails to appear), Code of Criminal Procedure, as added by Chapter 977 (H.B. 351), Acts of the 85th Legislature, Regular Session, 2017.

SECTION 5. Provides that Article 45.041(c-1), Code of Criminal Procedure, as added by this Act, applies to a defendant who is sentenced for an offense on or after the effective date of this Act, regardless of whether the offense is committed before, on, or after the effective date of this Act.

SECTION 6. Provides that Article 45.048, Code of Criminal Procedure, as amended by this Act, applies to a defendant who is placed in jail on or after the effective date of this Act for failure to pay the fine and costs imposed on conviction of an offense, regardless of whether the offense for which the defendant was convicted was committed before, on, or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2021.