

By: Bernal

H.B. No. 772

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the amount of a fine or cost imposed in a criminal case  
3 by a justice or municipal court and to the court's authority to  
4 order a defendant confined in jail for failure to pay a fine or cost  
5 or for contempt.

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

7 SECTION 1. Article 45.041(c), Code of Criminal Procedure,  
8 is amended to read as follows:

9 (c) The justice or judge shall credit the defendant for time  
10 served in jail as provided by Article 42.03. The credit shall be  
11 applied to the amount of the fine and costs at the rate of not less  
12 than \$50 for each period served that is not less than eight hours or  
13 more than 24 hours, as specified by the justice or judge [~~provided~~  
14 ~~by Article 45.048~~].

15 SECTION 2. The heading to Article 45.046, Code of Criminal  
16 Procedure, is amended to read as follows:

17 Art. 45.046. HEARING ON DEFAULT [~~COMMITMENT~~].

18 SECTION 3. Article 45.046(a), Code of Criminal Procedure,  
19 is amended to read as follows:

20 (a) When a judgment and sentence have been entered against a  
21 defendant and the defendant defaults in the discharge of the  
22 judgment, the judge may order the defendant to appear [~~confined in~~  
23 ~~jail until discharged by law if the judge~~] at a hearing and show  
24 cause as to why the defendant defaulted in discharging the judgment

1 ~~[makes a written determination that:~~

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

4 ~~[(2) the defendant is indigent and:~~

5 ~~[(A) has failed to make a good faith effort to~~  
6 ~~discharge the fines and costs under Article 45.049; and~~

7 ~~[(B) could have discharged the fines and costs~~  
8 ~~under Article 45.049 without experiencing any undue hardship].~~

9 SECTION 4. Subchapter B, Chapter 45, Code of Criminal  
10 Procedure, is amended by adding Article 45.0465 to read as follows:

11 Art. 45.0465. CONFINEMENT FOR FAILURE TO SATISFY JUDGMENT  
12 OR FOR CONTEMPT PROHIBITED. A justice or municipal court may not  
13 order the confinement of a person, including a child as defined by  
14 Article 45.058(h), for:

15 (1) the failure to pay all or any part of a fine or  
16 costs imposed for the conviction of an offense punishable by fine  
17 only; or

18 (2) contempt of a judgment entered for the conviction  
19 of an offense punishable by fine only.

20 SECTION 5. Article 45.048(a), Code of Criminal Procedure,  
21 is amended to read as follows:

22 (a) A defendant confined ~~[placed]~~ in jail ~~[on account of~~  
23 ~~failure to pay the fine and costs]~~ shall be discharged on habeas  
24 corpus by showing that the defendant was confined in jail:

25 (1) in violation of Article 45.0465 or 45.050(b) [is  
26 ~~too poor to pay the fine and costs]; or~~

27 (2) as a result of:

1           (A) failure to pay the applicable fine or costs  
2 imposed by a judgment entered for the conviction of an offense  
3 punishable by fine only; or

4           (B) contempt of a judgment described by Paragraph  
5 (A) or, if the defendant is a child, contempt of an order of a  
6 justice or municipal court [~~has remained in jail a sufficient~~  
7 ~~length of time to satisfy the fine and costs, at the rate of not less~~  
8 ~~than \$50 for each period of time served, as specified by the~~  
9 ~~convicting court in the judgment in the case].~~

10           SECTION 6. The heading to Article 45.050, Code of Criminal  
11 Procedure, is amended to read as follows:

12           Art. 45.050. [~~FAILURE TO PAY FINE, FAILURE TO APPEAR,~~]  
13 CONTEMPT: JUVENILES.

14           SECTION 7. Article 45.050(b), Code of Criminal Procedure,  
15 is amended to read as follows:

16           (b) A justice or municipal court may not order the  
17 confinement of a child for:

18                 ~~[(1) the failure to pay all or any part of a fine or~~  
19 ~~costs imposed for the conviction of an offense punishable by fine~~  
20 ~~only,~~

21                 (2) the failure to appear for an offense committed by  
22 the child; or

23                 (3) contempt of an [~~another~~] order of a justice or  
24 municipal court.

25           SECTION 8. Section 21.002(c), Government Code, is amended  
26 to read as follows:

27           (c) Subject to Articles 45.0465 and 45.050(b), Code of

1 Criminal Procedure, the [~~The~~] punishment for contempt of a justice  
2 court or municipal court is a fine of not more than \$100 or  
3 confinement in the county or municipal [~~city~~] jail for not more than  
4 three days, or both such a fine and confinement in jail.

5 SECTION 9. Articles 45.046(b) and 45.048(b), Code of  
6 Criminal Procedure, are repealed.

7 SECTION 10. (a) Except as provided by Subsection (b) of  
8 this section, the changes in law made by this Act apply only to a  
9 judgment that has not been discharged before the effective date of  
10 this Act and a judgment entered on or after the effective date of  
11 this Act.

12 (b) Article 45.050(b), Code of Criminal Procedure, as  
13 amended by this Act, applies only to an order entered on or after  
14 the effective date of this Act.

15 (c) Not later than September 2, 2021, a county or municipal  
16 jail shall release each person who, on the effective date of this  
17 Act, is confined in the county or municipal jail for:

18 (1) the failure to pay all or any part of a fine or  
19 costs imposed for the conviction of an offense punishable by fine  
20 only, including confinement ordered under Article 45.046, Code of  
21 Criminal Procedure, as that article existed before the effective  
22 date of this Act;

23 (2) contempt of a judgment entered for the conviction  
24 of an offense punishable by fine only; or

25 (3) contempt of an order of a justice or municipal  
26 court, if the person is a child as defined by Article 45.058(h),  
27 Code of Criminal Procedure.

1 SECTION 11. This Act takes effect September 1, 2021.