

BILL ANALYSIS

Senate Research Center

H.B. 351
By: Canales et al. (Hinojosa)
Criminal Justice
5/17/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that too many people are sent to jail because they cannot afford to pay fines or court costs, and the parties assert that judges need more flexibility to waive fines and costs and order community service.

H.B. 351 amends the Code of Criminal Procedure to allow a judge to order, at sentencing or any time thereafter, 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 and includes additional requirements that include 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.

H.B. 351 also allows 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.

H.B. 351 amends current law relating to the discharge or waiver of fines and costs imposed on indigent defendants and authorizes a fee.

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 42.15(b), Code of Criminal Procedure, to provide that this subsection is subject to Article 43.09(f).

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

(f) Authorizes a court, at sentencing or at any time after sentencing, to 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. Makes a nonsubstantive change.

(g) Requires the court, in its order requiring a defendant to perform community service under Subsection (f), to specify the number of hours the defendant is required to work, the date by which the community service must be completed, and whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program. Makes nonsubstantive changes.

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

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

SECTION 3. Amends Article 43.091, Code of Criminal Procedure, to delete existing text authorizing a court to waive payment of a fine or cost imposed on a defendant who defaults in payment.

SECTION 4. Amends Article 45.041, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (b-2a), as follows:

(b) Provides that this subsection is subject to Subsection (b-2a).

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

SECTION 5. Amends Article 45.049, Code of Criminal Procedure, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

(b) Requires the justice or judge, in the justice's or judge's order requiring a defendant to perform, rather than participate in, community service under this article, to specify the number of hours the defendant is required to work and the date by which the community service must be completed. Makes a nonsubstantive change.

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

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

SECTION 6. Amends Article 45.0491, Code of Criminal Procedure, as follows:

Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. Authorizes a municipal court, regardless of whether the court is a court of record, or a justice court to waive payment of a fine or costs imposed on a defendant if the court determines that the defendant is indigent or was, at the time the offense was committed, a child 18 years or younger at the time of the offense, rather than a child as defined by Article 45.058(h) (relating to the definition of "child"). Makes a nonsubstantive change.

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

SECTION 8. Effective date: September 1, 2017.