

BILL ANALYSIS

C.S.H.B. 3729
By: White
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that fine-only misdemeanors can create a multitude of unforeseen problems for individuals with limited resources. Without an alternative means to discharge these fines, the parties explain that many of these defendants get caught in a cycle of debt and jail time. C.S.H.B. 3729 seeks to interrupt this cycle by providing more opportunities for these individuals to have fines and fees waived or discharged through community service.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3729 amends the Code of Criminal Procedure to change from a Class C misdemeanor to a misdemeanor punishable by a fine only the offense for which a peace officer, instead of taking the person before a magistrate, may issue a citation to a person that contains written notice of the time and place to appear before the magistrate and to include language relating to a defendant's inability to pay a fine or costs in such cases in the admonishment required to be included in such a written citation. The bill prohibits a justice or judge from issuing an arrest warrant for a defendant's failure to appear unless the justice or judge provides certain notice by telephone, mail, or email to the defendant and the defendant fails to appear before the justice or judge as required by the warrant. The bill authorizes a defendant who receives such a notice to request an alternative date or time to appear before the justice or judge if the defendant is unable to appear on a date and at a time provided in the notice. The bill prohibits a defendant who voluntarily appears before a justice or judge to resolve an outstanding arrest warrant, a citation or complaint, or an unpaid fine or cost from being arrested on a warrant for any misdemeanor punishable by fine only during or immediately before or after the defendant's appearance.

C.S.H.B. 3729 requires a justice or judge who accepts a defendant's plea of guilty or nolo contendere to advise the defendant that, regardless of the defendant's ability to pay, the defendant is authorized to request to perform community service to discharge any fine or cost imposed on the defendant in the case. The bill requires the justice or judge when imposing a fine and costs in case of conviction in a criminal action to seek information from the defendant that is relevant to a determination of whether the defendant is able to immediately pay the fine or costs. The bill authorizes the justice or judge when imposing such a fine or cost to require the defendant to perform community service to discharge all or part of the fine or costs.

C.S.H.B. 3729 replaces the requirement for a *capias pro fine* to command the appropriate peace officer to place a defendant who is not in custody when judgment is rendered or who fails to satisfy the judgment in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately with a requirement for the *capias pro fine* to so command the officer under those conditions to confine the defendant in jail and bring the defendant before the court not later than 24 hours after the time of the defendant's arrest, provided that if the defendant is not brought before the court within that period, the person having custody of the defendant is required to release the defendant. The bill prohibits the court from issuing a *capias pro fine* for the defendant's failure to satisfy the judgment according to its terms with certain exceptions.

C.S.H.B. 3729 includes showing that the defendant has remained in jail for a cumulative period of 72 hours among the conditions under which a defendant placed in jail on account of failure to pay the fine and costs is required to be discharged on habeas corpus. The bill increases from \$50 to \$300 the minimum rate for each period served by a defendant used to determine whether the defendant has remained in jail a sufficient length of time to satisfy the applicable fine and costs. The bill requires the convicting court, if a defendant placed in jail on account of failure to pay the fine and costs has remained in jail for a cumulative period of 72 hours and the amount owed has not been fully discharged, to release the defendant from jail and to waive the remaining amount owed.

C.S.H.B. 3729 revises statutory provisions relating to the performance of community service in satisfaction of a fine or costs by authorizing a justice or judge to require a defendant to perform community service to discharge all or part of the fine or costs assessed in the case. The bill sets out provisions relating to the performance of such community service by an indigent defendant and to the authorization for a defendant to request to perform such community service. The bill requires a justice or judge to specify in the justice's or judge's order requiring or permitting a defendant to perform such community service the date by which the defendant must submit to the court documentation verifying the defendant's completion of the community service. The bill includes among the entities and organizations for which such a defendant may perform, or request to perform community service, an organization that provides services to the general public that enhance social welfare and the general well-being of the community, as determined by the justice or judge, a religious organization, a neighborhood association or group, and an educational institution. The bill changes the criteria by which a defendant is considered to have discharged a fine or cost from \$50 of fines or cost for each eight hours of community service performed to \$15 of fines or costs for each hour of community service performed.

C.S.H.B. 3729 revises the process by which the payment of fines or costs for certain defendants and children may be waived by authorizing a municipal or justice court to waive payment of all or part of a fine or costs imposed on a defendant if the court determines that the waiver is in the interest of justice or that the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs, as applicable, or was a child at least 10 years of age and younger than 17 years of age at the time the offense was committed. The bill requires the court to waive payment of costs and at least 50 percent of a fine imposed on a defendant if the court determines that the defendant is indigent or does not have sufficient resources or income to pay the fine and costs and sets out the conditions under which a defendant is presumed to be indigent or to not have sufficient resources or income to pay the fine and costs.

C.S.H.B. 3729 removes the requirement for a defendant convicted of a felony or misdemeanor to pay a \$50 fee for processing an issued arrest warrant, *capias*, or *capias pro fine* and removes the condition that the arrest warrant or *capias* was not executed from conditions under which such a defendant is required to pay that fee. The bill restricts assessment of the \$50 fee for executing such an instrument to once for an arrest, regardless of whether more than one arrest warrant, *capias*, or *capias pro fine* is executed during the arrest.

C.S.H.B. 3729 amends the Transportation Code to include the waiver of a person's past due fine,

fee, or tax among the conditions of which a county contracting with the Texas Department of Motor Vehicles (TxDMV) under statutory vehicle registration provisions relating to county scofflaw is required to notify TxDMV regarding a person for whom the county assessor-collector or TxDMV has refused to register a motor vehicle and to prohibit the county from imposing a certain additional \$20 fee on the defendant if a county assessor-collector is notified that the court having jurisdiction over the underlying offense has waived the past due fine or fee due to the defendant's indigency. The bill includes the clerk of a municipal court among the clerks with whom a person whose license has been suspended for a cause other than a physical or mental disability or impairment or certain convictions may apply for an occupational license by filing a verified petition.

C.S.H.B. 3729 specifies that the dismissal of the charge for which a warrant of arrest was issued or judgment ordering the payment of an applicable fine or cost arose on which a political subdivision is required to immediately notify the Department of Public Safety (DPS) that there is no cause to continue to deny renewal of a person's driver's license based on certain factors is a dismissal other than a dismissal with prejudice by the appropriate prosecuting attorney for lack of evidence. The bill specifies that the payment or discharge of the fine and cost owed on an outstanding judgment of the court that serves as a trigger for that clearance notice requirement to DPS includes a waiver of such fine and cost. The bill prohibits DPS from continuing to deny the renewal of a person's driver's license after DPS receives notice that the charge on which the person failed to appear was dismissed with prejudice by the appropriate prosecuting attorney for lack of evidence. The bill includes the following as circumstances under which a person who fails to appear for a complaint or citation for certain offenses is exempt from the requirement to pay an administrative fee of \$30 for each such complaint or citation reported to DPS: the charges on which the person failed to appear were dismissed with prejudice by the appropriate prosecuting attorney for lack of evidence, the failure to appear report was sent to DPS in error, or the case regarding the complaint or citation is closed and the failure to appear report has been destroyed in accordance with the applicable political subdivision's records retention policy. The bill specifies that the dismissal of the underlying offense that serves as a trigger for a person's payment of such a fee is a dismissal other than a dismissal with prejudice by the appropriate prosecuting attorney for lack of evidence. The bill requires a municipal court judge or justice of the peace who has jurisdiction over the underlying offense to waive any such required administrative fee if the judge or justice makes a finding that the defendant is indigent. The bill requires a court, not later than the fifth day after the date the court receives information establishing that a person is indigent, to notify DPS that the person is indigent for purposes of the collection of surcharges under the driver responsibility program.

C.S.H.B. 3729 reenacts and amends Section 502.010(f), Transportation Code, as amended by Chapters 1094 (S.B. 1386) and 1296 (H.B. 2357), Acts of the 82nd Legislature, Regular Session, 2011, to conform to changes made by Chapter 1094 (S.B. 1386), Acts of the 82nd Legislature, Regular Session, 2011, and to remove the restriction on the use of an additional fee assessed under statutory provisions relating to county scofflaw to reimbursement to TxDMV or the county for its expenses for providing services under a contract with TxDMV to provide certain information for purposes of refusing vehicle registration.

C.S.H.B. 3729 amends the Government Code and Local Government Code to make conforming changes.

C.S.H.B. 3729 repeals a requirement under the Local Government Code for a person convicted of an offense to pay, in addition to all other costs, a fee of \$25 if the person has been convicted of a felony or misdemeanor and pays any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution.

C.S.H.B. 3729 makes its provisions amending the Code of Criminal Procedure regarding a warrant of arrest, a defendant's plea of guilty or nolo contendere, a defendant's payment of fines

and costs, a judge's order of confinement on a defendant's judgment default, a defendant's community service in satisfaction of fines or costs, and a waiver of payment of fines and costs for indigent defendants and children applicable to a sentencing proceeding that commences before, on, or after the bill's effective date and establishes that its provisions relating to the discharge of a defendant from jail on account of failure to pay the applicable fine and costs apply to a defendant who is placed in jail on or after the bill's effective date for failure to pay the fine and costs imposed on conviction of an offense, regardless of whether the offense of which the defendant was convicted was committed before, on, or after that date.

C.S.H.B. 3729 repeals Section 133.103, Local Government Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3729 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 14.06(b), Code of Criminal Procedure, is amended.

SECTION 2. Article 45.014, Code of Criminal Procedure, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) A justice or judge may not issue an arrest warrant for the defendant's failure to appear unless:

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

(A) at least two dates and times, occurring within the 30-day period following the date that notice is provided, when the defendant may appear before the justice or judge;

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

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

(D) an explanation of the consequences if the defendant fails to appear before the justice or judge within the period described by Paragraph (A); and

(2) the defendant fails to appear before the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Article 45.014, Code of Criminal Procedure, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) A justice or judge may not issue an arrest warrant for the defendant's failure to appear unless:

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

(A) at least two dates and times, occurring within the 30-day period following the date that notice is provided, when the defendant may appear before the justice or judge;

(B) the name and address of the court with jurisdiction in the case and a telephone number that the defendant may use to request an alternative date or time under Subsection (f);

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

(D) an explanation of the consequences if the defendant fails to appear before the justice or judge as required by this article; and

(2) the defendant fails to appear before the

justice or judge on or before the 30th day after the date that notice is provided under Subdivision (1).

(f) A defendant who receives notice under Subsection (e) may request an alternative date or time to appear before the justice or judge if the defendant is unable to appear on a date and at a time provided in the notice.

(g) A defendant who voluntarily appears before a justice or judge to resolve an outstanding arrest warrant or an unpaid fine or cost may not be arrested on a warrant for any misdemeanor punishable by fine only during or immediately before or after the defendant's appearance.

SECTION 3. Article 45.023, Code of Criminal Procedure, is amended.

SECTION 4. Article 45.041, Code of Criminal Procedure, is amended.

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

(a) If the defendant is not in custody when the judgment is rendered or, subject to Subsection (a-2), if the defendant fails to satisfy the judgment according to its terms, the court may order a *capias pro fine*, as defined by Article 43.015, issued for the defendant's arrest. The *capias pro fine* shall state the amount of the judgment and sentence[;] and shall command the appropriate peace officer to:

(1) bring the defendant before the court immediately; or

(2) [~~place the defendant in jail until the business day following the date of the defendant's arrest~~] if the defendant cannot be brought before the court immediately, confine the defendant in jail and bring the defendant before the court not later than 24 hours after the time of the defendant's arrest, provided that if the defendant is not brought before the court within that period, the person having custody of the defendant shall release the defendant.

(a-2) The court may not issue a *capias pro fine* for the defendant's failure to satisfy the judgment according to its terms unless:

(1) the court provides by certified mail to the defendant notice that includes:

justice or judge as required by this article.

(f) A defendant who receives notice under Subsection (e) may request an alternative date or time to appear before the justice or judge if the defendant is unable to appear on a date and at a time provided in the notice.

(g) A defendant who voluntarily appears before a justice or judge to resolve an outstanding arrest warrant, a citation or complaint, or an unpaid fine or cost may not be arrested on a warrant for any misdemeanor punishable by fine only during or immediately before or after the defendant's appearance.

SECTION 3. Same as introduced version.

SECTION 4. Substantially same as introduced version.

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

(a) If the defendant is not in custody when the judgment is rendered or, subject to Subsection (a-2), if the defendant fails to satisfy the judgment according to its terms, the court may order a *capias pro fine*, as defined by Article 43.015, issued for the defendant's arrest. The *capias pro fine* shall state the amount of the judgment and sentence[;] and shall command the appropriate peace officer to:

(1) bring the defendant before the court immediately; or

(2) [~~place the defendant in jail until the business day following the date of the defendant's arrest~~] if the defendant cannot be brought before the court immediately, confine the defendant in jail and bring the defendant before the court not later than 24 hours after the time of the defendant's arrest, provided that if the defendant is not brought before the court within that period, the person having custody of the defendant shall release the defendant.

(a-2) The court may not issue a *capias pro fine* for the defendant's failure to satisfy the judgment according to its terms unless:

(1) the court provides by mail to the defendant notice that includes:

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

(B) a date and time, occurring not later than the 21st day after the date that notice is mailed, when the court will hold a hearing on the defendant's failure to satisfy the judgment according to its terms; and

(C) the location at which the hearing will be held; and

(2) either:

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

(B) based on evidence presented at the hearing, the court makes a written determination that:

(i) the defendant is not indigent and has failed to make a good faith effort to discharge the fine or costs; or

(ii) the defendant is indigent and:

(a) has failed to make a good faith effort to discharge the fine or costs under Article 45.049; and

(b) could have discharged the fine or costs under Article 45.049 without experiencing any undue hardship.

SECTION 6. Article 45.046(a), Code of Criminal Procedure, is amended.

SECTION 7. Article 45.048, Code of Criminal Procedure, is amended.

SECTION 8. Article 45.049, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (c), (d), (e), and (g) and adding Subsections (a-1), (a-2), (a-3), and (c-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] justice or judge may require a defendant [~~who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs,~~] to perform community service under this article to discharge all or part of the fine or costs assessed in the case [~~by performing community service~~].

(a-1) A justice or judge may require a defendant described by Article 45.0491(c) to perform community service under this article to discharge all or part of the fine or costs only if the justice or judge determines that the requirement would not impose an undue hardship on the defendant.

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

(B) a date and time, occurring not later than the 21st day after the date that notice is mailed, when the court will hold a hearing on the defendant's failure to satisfy the judgment according to its terms; and

(C) the location at which the hearing will be held; and

(2) either:

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

(B) based on evidence presented at the hearing, the court makes a written determination that:

(i) the defendant is not indigent and has failed to make a good faith effort to discharge the fine or costs; or

(ii) the defendant is indigent and:

(a) has failed to make a good faith effort to discharge the fine or costs under Article 45.049; and

(b) could have discharged the fine or costs under Article 45.049 without experiencing any undue hardship.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Article 45.049, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (c), (d), (e), and (g) and adding Subsections (a-1), (a-2), (a-3), and (c-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] justice or judge may require a defendant [~~who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs,~~] to perform community service under this article to discharge all or part of the fine or costs assessed in the case [~~by performing community service~~].

(a-1) A justice or judge may require a defendant described by Article 45.0491(c) to perform community service under this article to discharge all or part of the fine or costs only if the justice or judge determines that the requirement would not impose an undue hardship on the defendant.

(a-2) At sentencing, a defendant may request to perform community service under this article to discharge all or part of the fine or costs assessed in the case. The justice or judge shall grant the request if:

(1) the defendant is described by Article 45.0491(c); or

(2) granting the request is in the interest of justice.

(a-3) A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

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

the number of hours of community service the defendant is required to perform ~~work~~.

(c) The justice or judge may order the defendant, or the defendant may request under Subsection (a-2), to perform community service ~~work~~ under this article ~~only~~ for:

(1) a governmental entity;

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

(3) a religious organization;

(4) a neighborhood association or group; or

(5) an educational institution.

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

(d) A justice or judge may not order a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to perform

(a-2) At sentencing, a defendant may request to perform community service under this article to discharge all or part of the fine or costs assessed in the case. The justice or judge shall grant the request if:

(1) the defendant is described by Article 45.0491(c); or

(2) granting the request is in the interest of justice.

(a-3) A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

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

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

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

(c) The justice or judge may order the defendant, or the defendant may request under Subsection (a-2), to perform community service ~~work~~ under this article ~~only~~ for:

(1) a governmental entity;

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

(3) a religious organization;

(4) a neighborhood association or group; or

(5) an educational institution.

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

(d) A justice or judge may not order a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to perform

[work] additional hours does not impose an undue [work-a] hardship on the defendant or the defendant's dependents.

(e) A defendant is considered to have discharged not less than \$15 [~~\$50~~] of fines or costs for each hour [~~eight hours~~] of community service performed under this article.

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

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

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

(A) supervise the defendant in the performance of the defendant's community service [~~work~~]; and

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

SECTION 9. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

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

(1) the defendant does not have sufficient resources or income to pay the fine or costs, as applicable, [is indigent] or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

(2) the waiver is in the interest of justice [discharging the fine and costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant].

[work] additional hours does not impose an undue [work-a] hardship on the defendant or the defendant's dependents.

(e) A defendant is considered to have discharged not less than \$15 [~~\$50~~] of fines or costs for each hour [~~eight hours~~] of community service performed under this article.

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

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

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

(A) supervise the defendant in the performance of the defendant's community service [~~work~~]; and

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

SECTION 9. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0491. WAIVER OF PAYMENT OF FINES OR [~~AND~~] COSTS FOR CERTAIN [~~INDIGENT~~] DEFENDANTS AND FOR CHILDREN. (a) A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of all or part of a fine or costs imposed on a defendant [~~who defaults in payment~~] if the court determines:

(1) that:

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

(B) [(2)] discharging all or part of the fine or [and] costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant;
or

(2) that the waiver is in the interest of

(b) A municipal court, regardless of whether the court is a court of record, or a justice court shall waive payment of costs and at least 50 percent of a fine imposed on a defendant described by Subsection (c) if the court determines that the defendant does not have sufficient resources or income to pay the fine and costs.

(c) For purposes of Subsection (b), a defendant is presumed not to have sufficient resources or income to pay the fine and costs if the defendant:

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

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

(3) receives assistance from:

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

(B) the medical assistance program under Chapter 32, Human Resources Code;

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

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

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

SECTION 10. Article 102.011, Code of Criminal Procedure, is amended.

SECTION 11. Section 102.021, Government Code, is amended.

SECTION 12. Section 102.0212, Government Code, is amended.

SECTION 13. Section 103.0213, Government Code, is amended to read as follows:

Sec. 103.0213. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: TRANSPORTATION CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Transportation Code if ordered by the court or otherwise required:

justice.

(b) A municipal court, regardless of whether the court is a court of record, or a justice court shall waive payment of costs and at least 50 percent of a fine imposed on a defendant described by Subsection (c) if the court determines that the defendant is indigent or does not have sufficient resources or income to pay the fine and costs.

(c) For purposes of Subsection (b), a defendant is presumed to be indigent or to not have sufficient resources or income to pay the fine and costs if the defendant:

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

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

(3) receives assistance from:

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

(B) the medical assistance program under Chapter 32, Human Resources Code;

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

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

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

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

No equivalent provision.

- (1) administrative fee on dismissal of charge of driving with an expired motor vehicle registration (Sec. 502.407, Transportation Code) . . . not to exceed \$20;
- (2) administrative fee on dismissal of charge of driving with an expired driver's license (Sec. 521.026, Transportation Code) . . . not to exceed \$20;
- (2-a) administrative fee on remediation of charge of operation of a vehicle without a registration insignia (Sec. 502.473, Transportation Code) . . . not to exceed \$10;
- (3) administrative fee on remediation of charge of operating a vehicle without complying with inspection requirements as certified (Sec. 548.605, Transportation Code) . . . not to exceed \$20;
- (4) administrative fee for failure to appear for a complaint or citation on certain offenses (Sec. 706.006, Transportation Code) . . . \$30 [~~for each violation~~]; and
- (5) administrative fee for failure to pay or satisfy certain judgments (Sec. 706.006, Transportation Code) . . . \$30.

SECTION 14. Section 133.003, Local Government Code, is amended.

SECTION 15. Section 502.010, Transportation Code, is amended by amending Subsection (a) and adding Subsections (f-2), (i), and (j) to read as follows:

(a) Except as otherwise provided by this section, a [A] county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle:

- (1) owes the county money for a fine, fee, or tax that is past due; or
- (2) failed to appear in connection with a complaint, citation, information, or indictment in a court in the county in which a criminal proceeding is pending against the owner.

SECTION 13. Same as introduced version.

SECTION 14. Section 502.010, Transportation Code, is amended by amending Subsection (c) and adding Subsection (i) to read as follows:

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

- (1) the person's payment or other means of discharge, including a waiver, of the past due fine, fee, or tax; or
- (2) perfection of an appeal of the case

(f-2) On payment or other means of discharge of a past due fine or fee that was imposed for a criminal offense, payment of the additional fee under Subsection (f)(1) may be waived by the county in which the fine or fee was owed or the court having jurisdiction over the offense.

(i) If the court having jurisdiction over an offense for which a fine or fee was imposed makes a finding that the defendant is indigent, has insufficient resources or income to pay the fine or fee, or is otherwise unable to pay the fine or fee:

(1) the court shall notify the county assessor-collector of the county in which the defendant intends to register the motor vehicle and the department of the finding;

(2) a county assessor-collector or the department may not refuse to register the defendant's motor vehicle under this section; and

(3) a county may not impose an additional fee on the defendant under Subsection (f).

(j) For purposes of Subsection (i), a court:

(1) shall presume that a defendant is indigent, has insufficient resources or income to pay the fine or fee, or is otherwise unable to pay a fine or fee if the defendant is:

(A) paying an existing fine or fee in specified portions at designated intervals; or
(B) performing community service in lieu of payment; and

(2) may find a defendant to be indigent, to have insufficient resources or income to pay a fine or fee, or to otherwise be unable to pay a fine or fee after considering any information that the court considers appropriate.

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

SECTION 17. Section 521.242(a), Transportation Code, is amended.

SECTION 18. Chapter 706, Transportation Code, is amended by adding Section 706.0011 to read as follows:

Sec. 706.0011. FINDING BY COURT OF INABILITY TO PAY. (a) If the court

contesting payment of the fine, fee, or tax.

(i) If a county assessor-collector is notified that the court having jurisdiction over the underlying offense has waived the past due fine or fee due to the defendant's indigency,

the county may not impose an additional fee on the defendant under Subsection (f).

SECTION 15. Same as introduced version.

SECTION 16. Same as introduced version.

No equivalent provision.

having jurisdiction over an offense for which a fine and cost were imposed makes a finding that the defendant is indigent, has insufficient resources or income to pay the fine and cost, or is otherwise unable to pay the fine and cost:

(1) the court shall notify the political subdivision in which the court is located and the department of the finding;

(2) the department may not deny renewal of the defendant's license under this chapter; and

(3) an administrative fee may not be imposed on the defendant under Section 706.006.

(b) For purposes of Subsection (a), a court:

(1) shall presume that a defendant is indigent, has insufficient resources or income to pay a fine and cost, or is otherwise unable to pay a fine and cost if the defendant is:

(A) paying an existing fine or cost in specified portions at designated intervals; or

(B) performing community service in lieu of payment; and

(2) may find a defendant to be indigent, to have insufficient resources or income to pay a fine and cost, or to be otherwise unable to pay a fine and cost after considering any information that the court considers appropriate.

SECTION 19. Section 706.005, Transportation Code, is amended to read as follows:

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

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

(2) ~~[the dismissal of the charge for which the warrant of arrest was issued or judgment arose;~~

SECTION 17. Section 706.005, Transportation Code, is amended to read as follows:

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

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

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

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

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

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

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

(1) under Subsection (a);

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

(3) that the charge on which the person failed to appear was dismissed; or

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

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

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

SECTION 20. Section 706.006, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a [A] person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$30 for all complaints or citations that are issued for offenses arising from the same criminal episode and are [each complaint or citation] reported to the department under this chapter, unless the person is acquitted of the charges for which the person failed to appear or those charges are dismissed.

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

(4) the payment or discharge, including a waiver, of the fine and cost owed on an outstanding judgment of the court; or

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

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

(1) under Subsection (a);

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

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

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

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

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

SECTION 18. Section 706.006, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (d) to read as follows:

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

unless:

(1) the person is acquitted of the charges on [for] which the person failed to appear;

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

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

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

The person shall pay the fee when:

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

(2) ~~the underlying offense is dismissed; or~~

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

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

(d) A municipal court judge or justice of the peace who has jurisdiction over the underlying offense may waive an administrative fee required by this section.

SECTION 21. Section 708.158, Transportation Code, is amended.

SECTION 22. Section 133.103, Local Government Code, is repealed.

SECTION 23. The changes in law made by this Act to Article 14.06, Code of Criminal Procedure, and Section 502.010 and Chapter 706, Transportation Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 24. The changes in law made by this Act to Articles 45.014, 45.023, 45.041, 45.046, 45.049, and 45.0491, Code of Criminal Procedure, apply to a sentencing proceeding that commences before, on, or after the effective date of this Act.

SECTION 25. The change in law made by this Act to Article 45.045, Code of Criminal

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

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

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

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

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

(d) A municipal court judge or justice of the peace who has jurisdiction over the underlying offense shall waive any administrative fee required by this section if the judge or justice makes a finding that the defendant is indigent under Article 45.0491, Code of Criminal Procedure.

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

SECTION 21. Same as introduced version.

SECTION 22. Same as introduced version.

SECTION 23. Same as introduced version.

Procedure, applies only to a capias pro fine issued on or after the effective date of this Act. A capias pro fine issued before the effective date of this Act is governed by the law in effect on the date the capias pro fine was issued, and the former law is continued in effect for that purpose.

SECTION 26. The change in law made by this Act to Article 45.048, Code of Criminal Procedure, 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 of which the defendant was convicted was committed before, on, or after the effective date of this Act.

SECTION 27. The changes in law made by this Act to Article 102.011, Code of Criminal Procedure, and Section 102.021, Government Code, apply only to a fee imposed for an arrest warrant, capias, or capias pro fine issued on or after the effective date of this Act. A fee imposed for an arrest warrant, capias, or capias pro fine issued before the effective date of this Act is governed by the law in effect on the date the arrest warrant, capias, or capias pro fine was issued, and the former law is continued in effect for that purpose.

SECTION 28. The repeal by this Act of Section 133.103, Local Government Code, does not apply to an offense committed before the effective date of this Act. An offense committed before the effective date of this Act is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 29. This Act takes effect September 1, 2017.

SECTION 24. Same as introduced version.

SECTION 25. Same as introduced version.

SECTION 26. Same as introduced version.

SECTION 27. Same as introduced version.