

By: West

S.B. No. 395

A BILL TO BE ENTITLED

AN ACT

relating to fines and court costs imposed on a child in a criminal case.

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

SECTION 1. Article 42.15, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) Subject to Subsections [~~Subsection~~] (c) and (d), 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.

(d) When imposing a fine and costs on a defendant who is a child, as defined by Article 45.058(h), the court shall allow the defendant to choose to discharge the fine and costs by:

(1) performing community service under Article 43.09(h); or

(2) paying the fine and costs in a manner described by Subsection (b).

(e) The defendant's choice under Subsection (d) must be made in writing, signed by the defendant, and, if present, signed by the

1 defendant's parent, guardian, or managing conservator. The court
2 shall enter the choice in the record and provide a copy to the
3 defendant.

4 SECTION 2. Article 43.091, Code of Criminal Procedure, is
5 amended to read as follows:

6 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
7 INDIGENT DEFENDANTS AND CHILDREN. A court may waive payment of a
8 fine or cost imposed on a defendant who defaults in payment if the
9 court determines that:

10 (1) the defendant is indigent or is a child as defined
11 by Article 45.058(h); and

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

15 SECTION 3. Article 45.041, Code of Criminal Procedure, is
16 amended by amending Subsection (b) and adding Subsections (b-3) and
17 (b-4) to read as follows:

18 (b) Subject to Subsections [~~Subsection~~] (b-2) and (b-3),
19 the justice or judge may direct the defendant:

20 (1) to pay:

21 (A) the entire fine and costs when sentence is
22 pronounced;

23 (B) the entire fine and costs at some later date;
24 or

25 (C) a specified portion of the fine and costs at
26 designated intervals;

27 (2) if applicable, to make restitution to any victim

of the offense; and

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

(b-3) When imposing a fine and costs on a defendant who is a child, as defined by Article 45.058(h), the court shall allow the defendant to choose to discharge the fine and costs by:

(1) performing community service under Article 43.09(h); or

(2) paying the fine and costs in a manner described by Subsection (b).

(b-4) The defendant's choice under Subsection (b-3) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall enter the choice in the record and provide a copy to the defendant.

SECTION 4. Article 45.0491, Code of Criminal Procedure, is amended to read as follows:

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

(1) the defendant is indigent or is a child as defined by Article 45.058(h); and

(2) discharging the fine and costs under Article 45.049 would impose an undue hardship on the defendant.

SECTION 5. The change in law made by this Act applies only to a sentencing proceeding that commences on or after the effective

1 date of this Act. A sentencing proceeding that commences before the
2 effective date of this Act is governed by the law in effect at the
3 time the proceeding commences, and the former law is continued in
4 effect for that purpose.

5 SECTION 6. This Act takes effect September 1, 2013.