

By: Hinojosa

S.B. No. 1335

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,~~] CONTEMPT: JUVENILES.

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

15 (b) A justice or municipal court may not order the
16 confinement of a child for[+]

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

20 [~~(2)~~] contempt of an [~~another~~] order of a justice or
21 municipal court.

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

24 (c) Subject to Articles 45.0465 and 45.050(b), Code of
25 Criminal Procedure, the [~~The~~] punishment for contempt of a justice
26 court or municipal court is a fine of not more than \$100 or
27 confinement in the county or municipal [~~city~~] jail for not more than

1 three days, or both such a fine and confinement in jail.

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3 Criminal Procedure, are repealed.

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

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

12 (c) Not later than September 2, 2017, a county or municipal
13 jail shall release each person who, on the effective date of this
14 Act, is confined in the county or municipal jail 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, including confinement ordered under Article 45.046, Code of
18 Criminal Procedure, as that article existed before the effective
19 date of this Act;

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

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

25 SECTION 11. This Act takes effect September 1, 2017.