

- SUBJECT:** Community service for juveniles with class C misdemeanors
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 7 ayes — Madden, Cain, Hunter, Marquez, Parker, Perry, Workman
0 nays
2 absent — Allen, White
- WITNESSES:** For — Fred Garcia, City of San Antonio Municipal Court; (*Registered, but did not testify*: Rinaldo Abonce, City of San Antonio; Frank Knaack, American Civil Liberties Union of Texas; Jodie Smith, Texans Care for Children; Ana Yáñez Correa, Texas Criminal Justice Coalition)

Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 45.049 authorizes municipal court judges and justices of the peace to allow defendants to discharge court fines and fees through community service if the defendant is indigent or failed to pay previously assessed fines or costs. Defendants discharge these fines at a rate of at least \$50 for eight hours of community service.
- DIGEST:** HB 1964 would authorize municipal court judges and justices of the peace to require juveniles younger than 17 who had been fined for a class C misdemeanor (maximum fine of \$500) to discharge all or part of their fine and costs by performing community service.
- The bill also would cap the community service at 200 hours. Justices and judges would have to specify the number of community service hours required. Juveniles would be able to discharge their community service requirement at any time by paying their fines and costs.
- Sheriffs and their employees, county commissioners, county employees, county judges, justices of the peace, municipal court judges, or employee and officers of political subdivisions would not be liable for damages arising from any act performed in connection with the community service if performed under a court order and not intentional, negligent, or performed with disregard for the safety of others.

Community supervision and corrections (probation) departments and court-related services offices could provide administrative and other services to supervise juveniles performing community service.

The bill would take effect September 1, 2011, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 1964 would give judges another option for handling juveniles who commit class C misdemeanors. Currently in these cases, judges and justices can order defendants to perform community service only if they had been found indigent or failed to pay a fine previously. For some juveniles accused of these low-level, fine-only misdemeanors, judges may think that community service would be an appropriate consequence, but they cannot order it unless the juvenile has been declared indigent.

HB 1964 would solve this problem by removing the requirement that juvenile offenders be indigent or have an outstanding fine in order to be assigned community service. Judges would be able to sentence juveniles to a productive sentence that involved helping the community rather than a fine that might be paid by their parents and could mean nothing to the juvenile. In San Antonio, municipal and justice of the peace courts have had great success with juveniles performing community service, and HB 1964 would allow these efforts to be expanded to all juveniles. The bill would not require a sentence of community service for any offender, but would allow judges the discretion to use this tool, if appropriate.

Under current law, there is a cap of 80 hours on community service since a class C misdemeanor can carry a fine of up to \$500, and the statute specifies that community service be discharged at a rate of at least \$50 per 8 hours. HB 1964 would allow courts to order up to 200 hours of community service so that judges and justices had the discretion to handle cases appropriately.

HB 1964 also would relieve local officials from liability for certain actions that may occur through a youth's community service so that these government officials would have the same protection that they do under current law.

While HB 1964 would give adult probation departments authority to provide administrative and other services for juveniles performing community service under the bill, it would be permissive. This would

allow involvement only if appropriate and agreed to by the judge or justice and the probation department.

**OPPONENTS
SAY:**

HB 1964 should not include adult community supervision and corrections (probation) departments among those that could provide administrative or other services for youths performing community service under the bill. These departments focus on adult offenders and should not be involved in low-level juvenile sentences from municipal and justice of the peace courts.