

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 350
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to a report developed by an organization that promotes justice, data from the Texas Office of Court Administration reveals that almost 300,000 Class C misdemeanors were issued in fiscal year 2009 to juveniles in Texas. That same organization reports that children as young as 10 years old receive Class C misdemeanors at school and that the majority of such citations are written for low-level, nonviolent behavior.

Under current law, juveniles in Texas may receive Class C misdemeanor citations for behavior ranging from disrupting class to truancy. A juvenile and the juvenile's parents must appear in court to resolve a Class C misdemeanor by paying applicable fees and fines and are sometimes required to miss school and work, respectively, in making such an appearance in court. Judges currently have discretion to offer community service to juveniles, but there is no statutory language that expressly authorizes academic enrichment in satisfaction of a fine, in order to supplant any classroom instruction that may be lost as a consequence of disciplinary proceedings.

C.S.H.B. 350 amends current law relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.

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 Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0492, as follows:

Art. 45.0492. COMMUNITY SERVICE OR TUTORING IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a) Provides that this article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor occurring in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense.

(b) Authorizes a justice or judge to require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service or attending a tutoring program that is satisfactory to the court. Authorizes a defendant to discharge an obligation to perform community service or attend a tutoring program under this article by paying at any time the fine and costs assessed.

(c) Requires a justice or judge, in the justice's or judge's order requiring a defendant to participate in community service work or a tutoring program under this article, to specify the number of hours the defendant is required to work or attend tutoring.

(d) Authorizes the justice or judge to order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. Requires a governmental entity or nonprofit organization that accepts a defendant under this article to perform community service to agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(e) Requires a tutoring program that accepts a defendant under this article to agree to supervise the defendant in the attendance of the tutoring program and report on the defendant's work to the justice or judge who ordered the tutoring.

(f) Prohibits a justice or judge from ordering a defendant to perform more than 16 hours of community service per week or attend more than 16 hours of tutoring per week under this article unless the justice or judge determines that requiring additional hours of work or tutoring does not cause a hardship on the defendant or the defendant's family. Provides that, for purposes of this subsection, "family" has the meaning assigned by Section 71.003 (Family), Family Code.

(g) Provides that a defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed or tutoring program attended under this article.

(h) Provides that a sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, officer or employee of a political subdivision other than a county, nonprofit organization, or tutoring program is not liable for damages arising from an act or failure to act in connection with an activity performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

(2) was not intentional, grossly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(i) Authorizes a local juvenile probation department or a court-related services office to provide the administrative and other services necessary for supervision of a defendant required to perform community service under this article.

SECTION 2. Amends Article 45.051(a-1), Code of Criminal Procedure, as follows:

(a-1) Authorizes a judge, notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), to:

(1) allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation;

(2) require an eligible defendant to discharge all or part of those costs by performing community service or attending a tutoring program under Article 45.049 (Community Service in Satisfaction of Fine or Costs) or 45.0492; or

(3) take any combination of actions authorized by Subdivision (1) or (2).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.