

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1913
By: Zaffirini
Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Low-income persons throughout Texas become trapped in a cycle of debt when they cannot afford to pay traffic tickets and other low-level, fine-only citations. When they cannot pay their tickets, they lose their driver's licenses and cannot renew their vehicle registrations, making it illegal to drive to work. When they do drive, they receive more tickets for driving without a license and registration, accumulating more fines, court costs, and fees. What's more, when they do not pay fines or court costs, warrants are issued for their arrest, and they may be jailed for days, weeks, or even months. Tens of thousands of people are booked into county jails each year for fine-only offenses alone. While in jail, they lose their jobs and housing and are driven deeper into poverty.

S.B. 1913 enacts comprehensive changes recommended by the Texas Judicial Council to address this issue. Generally, this bill would require that judges inquire into a defendant's ability to pay when imposing a fine or court costs; expand community service and work options that defendants can complete in lieu of payment of fines and costs; require courts to order a hearing before issuing a *capias pro fine* (i.e., a warrant for failure to pay) to give the defendant a chance to explain the reasons for not paying and the judge to impose an alternative sentence; prohibit judges from requiring a defendant to post a monetary bond in these cases; eliminate certain fees penalizing low-income persons; allow judges to waive fees that currently are charged to clear a hold on a vehicle registration (\$20) or a driver's license (\$30); prevent private collection agencies from collecting on any case in which a person has not yet appeared before a judge; cap the fees the private collection agencies could charge at 15 percent of the total amount owed; limit the length of time that a hold can be placed on renewal of a person's driver's license or vehicle registration related to nonpayment of fines or court costs to two years; limit the time that a person's license could be suspended for nonpayment of Drivers' Responsibility Program (DRP) surcharges to two years; and require judges to provide the Texas Department of Public Safety with notice when they have found someone unable to pay and therefore potentially eligible for the DRP Indigency Program.

These changes would provide judges with new tools to hold low-income Texans accountable when they are unable to pay their fines and court costs in criminal cases, so that they avoid the current system's cycle of debt, license suspensions, arrest warrants and jail time when they cannot pay. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1913 amends current law relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.

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 Article 14.06(b), Code of Criminal Procedure, as follows:

(b) Authorizes a peace officer who is charging a person, including a child, with a certain offense to, instead of taking the person before a magistrate, issue a citation to the person that contains, among certain other items, information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount. Makes nonsubstantive changes.

SECTION 2. Amends Section 4(a), Article 17.42, Code of Criminal Procedure, as follows:

(a) Creates an exception as otherwise provided by this subsection. Prohibits a court that requires a defendant to give a personal bond under Article 45.016 (Bail) from assessing a personal bond fee under this subsection. Makes a nonsubstantive change.

SECTION 3. Amends Article 27.14(b), Code of Criminal Procedure, as follows:

(b) Requires the court to notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine or costs assessed in the case, information regarding the alternatives to the full payment of any fine or costs assessed against the defendant, if the defendant is unable to pay that amount, and, if requested by the defendant, the amount of an appeal bond that the court will approve. Requires the defendant, except as otherwise provided by this code, to pay any fine or costs assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice. Makes nonsubstantive changes.

SECTION 4. Amends Article 42.15, Code of Criminal Procedure, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Authorizes a court, notwithstanding any other provision of this article (Fines and Costs), at the punishment stage in a case in which the defendant entered a plea in open court as provided by certain articles, to impose a fine and costs only if the court makes a determination that the defendant has sufficient resources or income to pay all or part of the fine and costs. Requires the court, in making that determination, to consider the defendant's financial history and any other information relevant to the defendant's ability to pay.

(b) Authorizes a court, subject to Subsections (c) (relating to certain requirements of the court when imposing a fine and costs in misdemeanor cases) and (d) (relating to authorizing a judge to allow a child defendant to discharge fine and costs in certain ways) and Article 43.091, when imposing a fine and costs, to direct a defendant to pay the entire fine and costs when sentence is pronounced or at some later date or to pay a specified portion of the fine and costs at designated intervals.

SECTION 5. Amends Article 43.05, Code of Criminal Procedure, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Prohibits a court from issuing a capias pro fine for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing on the defendant's ability to satisfy the judgment and the defendant fails to appear at the hearing or, based on evidence presented at the hearing, the court makes a certain written determination relating to the defendant.

(a-2) Requires the court to recall a capias pro fine if, before the capias pro fine is executed, the defendant voluntarily appears to resolve the amount owed.

SECTION 6. Amends Article 43.09, Code of Criminal Procedure, by amending Subsections (a), (g), (h), (j), and (l) and adding Subsection (h-1), as follows:

(a) Changes reference to the succeeding article to Article 43.10 (Manual Labor) and makes nonsubstantive changes. Increases from \$50 to \$100 the amount of the rating for each day of labor in certain programs or projects that a defendant is subject to when the defendant is convicted of a misdemeanor and the defendant's punishment is assessed at a

pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, and if the defendant is unable to pay the fine and costs adjudged against the defendant. Increases from \$50 to \$100 the amount of the rating for each day of confinement in jail that a defendant is subject to if certain programs or projects are not available when the defendant is convicted of a misdemeanor and the defendant's punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, and if the defendant is unable to pay the fine and costs adjudged against the defendant.

(g) Requires the court, in the court's order requiring a defendant to perform community service under Subsection (f) (relating to a court requiring a defendant who is unable to pay certain fines or costs to perform community service), rather than in its order requiring a defendant to participate in community service work under Subsection (f) of this article (Fine Discharged), to specify:

(1) the number of hours of community service the defendant is required to perform, rather than the number of hours the defendant is required to work. Makes a nonsubstantive change;

(2) makes a nonsubstantive change and makes no further changes to this subdivision; and

(3) the date by which the defendant is required to submit to the court documentation verifying the defendant's completion of the community service.

(h) Authorizes the court to order the defendant to perform community service under Subsection (f) by attending certain activities or for certain entities or organizations. Makes nonsubstantive and conforming changes.

(h-1) Creates this subsection from existing text. Requires an entity, rather than a governmental entity or nonprofit organization, that accepts a defendant under Subsection (f) to perform community service to agree to supervise, either on-site or remotely, the defendant in the performance of the defendant's community service and report on the defendant's community service to the district probation department or court-related services office. Makes nonsubstantive and conforming changes.

(j) Prohibits a court from ordering a defendant to perform more than 16 hours per week of community service under Subsection (f) unless the court determines that requiring the defendant to perform additional hours does not impose an undue hardship on the defendant or the defendant's dependents, rather than unless the court determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(l) Provides that a certain official or employee of certain governmental entities or an entity that accepts a defendant under this article to perform community service is not liable for damages arising from an act or failure to act in connection with manual labor performed by an inmate or community service performed by a defendant under this article if the act or failure to act meets certain criteria, rather than provides that a certain official or employee of certain governmental entities is not liable for damages arising from an act or failure to act in connection with manual labor performed by an inmate pursuant to this article if the act or failure to act meets certain criteria.

SECTION 7. Amends Article 43.091, Code of Criminal Procedure, as follows:

Sec. 43.091. New heading: WAIVER OF PAYMENT OF FINES AND COSTS FOR CERTAIN DEFENDANTS AND FOR CHILDREN. Authorizes a court to waive payment of all or part of a fine or costs imposed on a defendant, rather than to waive payment of a fine or cost imposed on a defendant who defaults in payment, if the court determines:

(1) that 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) (relating to defining “child”) and each alternative method of discharging the fine or cost under Article 43.09 (Fine Discharged) or 42.15 (Fines and Costs) would impose an undue hardship on the defendant; or

(2) that the waiver is in the interest of justice.

SECTION 8. Amends Article 45.014, Code of Criminal Procedure, by adding Subsections (e), (f), and (g), as follows:

(e) Prohibits a justice or judge from issuing an arrest warrant for the defendant’s failure to appear, including failure to appear as required by a citation issued under Article 14.06(b), unless the justice or judge provides by telephone or regular mail to the defendant notice that includes certain information and the defendant fails to appear before the justice or judge as required by this article (Warrant of Arrest).

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

(g) Requires a justice or judge to recall an arrest warrant for the defendant’s failure to appear if the defendant voluntarily appears and makes a good faith effort to resolve the arrest warrant before the warrant is executed.

SECTION 9. Amends Article 45.016, Code of Criminal Procedure, as follows:

Art. 45.016. New heading: PERSONAL BOND; BAIL BOND. (a) Creates this subsection from existing text. Authorizes the justice or judge to require the defendant to give a personal bond, rather than to give bail, to secure the defendant’s appearance in accordance with this code.

(b) Prohibits the justice or judge, either instead of or in addition to the personal bond, from requiring a defendant to give a bail bond, as defined by Article 17.02 (Definition of “Bail Bond”), or from requiring a surety or other security unless:

(1) the defendant fails to appear in accordance with this code with respect to the applicable offense; and

(2) the justice or judge determines that the defendant has sufficient resources or income to give a bail bond or that a surety or other security is necessary to secure the defendant’s appearance in accordance with this code.

(c) Requires the justice or judge, if before the expiration of a 48-hour period following the issuance of the applicable order a certain defendant does not give a required bail bond, to reconsider the requirement for the defendant to give the bail bond and presume that the defendant does not have sufficient resources or income to give the bond. Authorizes the justice or judge, if before the expiration of a 48-hour period following the issuance of the applicable order a certain defendant does not give a required bail bond, to require the defendant to give a personal bond.

(d) Authorizes the defendant to be held in custody if the defendant refuses to give a personal bond or, except as provided by Subsection (c), refuses or otherwise fails to give a bail bond.

SECTION 10. Amends Article 45.041, Code of Criminal Procedure, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Authorizes the justice or judge, notwithstanding any other provision of this article (Judgment), at the punishment stage in a case in which the defendant entered a plea in open court as provided by certain articles, to impose a fine and costs only if the justice or judge makes a determination that the defendant has sufficient resources or income to pay all or part of the fine and costs. Requires the justice or judge, in making that determination, to consider the defendant's financial history and any other information relevant to the defendant's ability to pay.

(b) Authorizes the justice or judge, subject to Subsections (b-2) (relating to certain requirements of the justice or judge when imposing a fine and costs) and (b-3) (relating to authorizing a judge to allow a child defendant to discharge fine and costs in certain ways) and Article 45.0491, to direct the defendant to take certain actions.

SECTION 11. Amends Article 45.0425(a), Code of Criminal Procedure, as follows:

(a) Prohibits the amount of an appeal bond, rather than the amount of a bail bond, from being less than two times the amount of the fine and costs adjudged against the defendant, payable to the State of Texas, and prohibits the appeal bond in any case from being for an amount less than \$50, rather than for a sum less than \$50. Makes a conforming change.

SECTION 12. Amends Article 45.045, Code of Criminal Procedure, by adding Subsections (a-2) and (a-3), as follows:

(a-2) Prohibits the court from issuing a *capias pro fine* for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing on the defendant's ability to satisfy the judgment and the defendant fails to appear at the hearing or, based on evidence presented at the hearing, the court makes a certain determination relating to the defendant.

(a-3) Requires the court to recall a *capias pro fine* if, before the *capias pro fine* is executed, the defendant voluntarily appears to resolve the amount owed.

SECTION 13. Amends Article 45.046(a), Code of Criminal Procedure, as follows:

(a) Authorizes the judge, when a judgment and sentence have been entered against a defendant and the defendant defaults in the discharge of the judgment, to order the defendant confined in jail until discharged by law if the judge at a hearing makes a written determination that:

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

(2) the defendant is indigent and has failed to make a good faith effort to discharge the fine or costs under Article 45.049 (Community Service in Satisfaction of Fine or Costs), rather than discharge the fines and costs under Article 45.049. Makes a conforming change.

SECTION 14. Amends Article 45.048, Code of Criminal Procedure, as follows:

Art. 45.048. DISCHARGED FROM JAIL. (a) Requires a defendant placed in jail on account of failure to pay the fine and costs to be discharged on habeas corpus by showing that the defendant is too poor to pay the fine and costs or has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$100 for each period served, rather than at the rate of not less than \$50 for each period of time served, as specified by the convicting court in the judgment in the case.

(b) Changes a reference to fines to fine and makes conforming changes.

SECTION 15. Amends Article 45.049, Code of Criminal Procedure, by amending Subsections (b), (c), (d), (e), (f), and (g) and adding Subsection (c-1), as follows:

(b) Requires the justice or judge, in the justice's or judge's order requiring a defendant to perform community service under this article, rather than in the justice's or judge's order requiring a defendant to participate in community service work, to specify:

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

(2) the date by which the defendant is required to submit to the court documentation verifying the defendant's completion of the community service, rather than the number of hours the defendant is required to work.

(c) Authorizes the justice or judge to order the defendant to perform community service under this article by attending certain activities or for certain entities or organizations. Makes nonsubstantive and conforming changes.

(c-1) Creates this subsection from existing text. Requires an entity, rather than a governmental entity or nonprofit organization, that accepts a defendant under this article to perform community service to agree to supervise, either on-site or remotely, the defendant in the performance of the defendant's community service and report on the defendant's community service to the justice or judge who ordered the service, rather than who ordered the community service. Makes conforming changes.

(d) Prohibits a justice or judge from ordering 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, rather than to work, additional hours does not impose an undue hardship, rather than does not work a hardship, on the defendant or the defendant's dependents.

(e) Increases from \$50 to \$100 the minimum amount of fines or costs for which a defendant is considered to have discharged for each eight hours of community service performed under this article.

(f) Provides that a certain official or employee of certain governmental entities or an entity that accepts a defendant under this article to perform community service is not liable for damages arising from an act or failure to act in connection with community service, rather than in connection with manual labor, performed by a defendant under this article if the act or failure to act fulfills certain criteria.

(g) Provides that, if under Article 45.051(b)(10) (relating to authorizing the judge, during the deferral period, to require the defendant to comply with any other reasonable condition), 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 service, rather than is entitled to elect whether to perform the required governmental entity or nonprofit organization community service, in the county in which the court is located or the county in which the defendant resides, but only if the applicable entity agrees to perform certain tasks, rather than only if the entity or organization agrees to perform certain tasks. Makes conforming changes.

SECTION 16. Amends Article 45.0491, Code of Criminal Procedure, as follows:

Art. 45.0491. New heading: WAIVER OF PAYMENT OF FINES AND COSTS FOR CERTAIN DEFENDANTS AND FOR CHILDREN. Authorizes a municipal court, regardless of whether the court is a court of record, or a justice court to waive payment of all or part of a fine or costs imposed on a defendant, rather than on a defendant who defaults in payment, if the court determines:

(1) that 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 discharging the fine or costs, rather than the fine and costs, under Article 45.049 would impose an undue hardship on the defendant; or

(2) that the waiver is in the interest of justice.

SECTION 17. Amends the heading to Article 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, to read as follows:

Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS.

SECTION 18. Amends Article 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsections (b), (c), (d), (f), (g), and (h) and adding Subsection (d-1), as follows:

(b) Authorizes a justice or judge to require a defendant described by Subsection (a) (relating to providing that this article applies only to certain defendants) to discharge all or part of the fine or costs by performing community service, rather than 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, rather than to perform community service or attend a tutoring program, under this article by paying at any time the fine and costs assessed.

(c) Requires the justice or judge, in the justice's or judge's order requiring a defendant to perform community service under this article, rather than 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:

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

(2) the date by which the defendant is required to submit to the court documentation verifying the defendant's completion of the community service, rather than community service work or attend tutoring.

(d) Authorizes the justice or judge to order the defendant to perform community service, rather than to perform community service work, under this article by attending certain activities or performing for certain entities or organizations. Makes nonsubstantive changes.

(d-1) Creates this subsection from existing text. Requires an entity, rather than a governmental entity or nonprofit organization, that accepts a defendant under this article to perform community service to agree to supervise, either on-site or remotely, the defendant in the performance of the defendant's community service and report on the defendant's community service to the justice or judge who ordered the service, rather than to the justice or judge who ordered the community service. Makes conforming changes.

(f) Prohibits a justice or judge from ordering a defendant to perform more than 16 hours of community service per week under this article unless the justice or judge determines that requiring the defendant to perform additional hours does not impose an undue hardship on the defendant or the defendant's family, rather than 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.

(g) Increases from \$50 to \$100 the minimum amount of fines or costs for which a defendant is considered to have discharged for each eight hours of community service performed under this article, rather than for each eight hours of community service performed or tutoring program attended under this article.

(h) Provides that a certain official or employee of certain governmental entities or an entity that accepts a defendant under this article to perform community service is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act fulfills certain criteria, rather than a certain official or employee of certain governmental entities, 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 fulfills certain criteria.

SECTION 19. Amends Article 45.0492, Code of Criminal Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsections (c), (d), (e), and (f) and adding Subsections (d-1) and (h), as follows:

(c) Requires the justice or judge, in the justice's or judge's order requiring a defendant to perform community service under this article, to specify:

(1) the number of hours of community service the defendant is required to perform, not to exceed 200 hours, rather than the number of hours of service the defendant is required to perform and is prohibited from ordering more than 200 hours; and

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

(d) Authorizes the justice or judge to order the defendant to perform community service, rather than to perform community service work, under this article by attending certain activities or performing for certain entities or organizations. Makes nonsubstantive changes.

(d-1) Creates this subsection from existing text. Requires an entity, rather than a governmental entity or nonprofit organization, that accepts a defendant under this article to perform community service to agree to supervise, either on-site or remotely, the defendant in the performance of the defendant's community service and report on the defendant's community service to the justice or judge who ordered the service, rather than to the justice or judge who ordered the community service. Makes conforming changes.

(e) Prohibits a justice or judge from ordering a defendant to perform more than 16 hours of community service per week under this article unless the justice or judge determines that requiring the defendant to perform additional hours does not impose an undue hardship on the defendant or the defendant's family, rather than unless the justice or judge determines that requiring additional hours of work does not cause a hardship on the defendant or the defendant's family.

(f) Provides that a certain official or employee of certain governmental entities or an entity that accepts a defendant under this article to perform community service is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act meets certain criteria.

(h) Provides that a defendant is considered to have discharged not less than \$100 of fines or costs for each eight hours of community service performed under this article.

SECTION 20. Amends Article 103.0031(j), Code of Criminal Procedure, as follows:

(j) Requires that a communication to the accused person regarding a certain payment include a certain notice and a statement that, if the person is unable to pay the full amount of payment that is acceptable to the court, the person should contact the court regarding the alternatives to full payment that are available to resolve the case. Makes nonsubstantive changes.

SECTION 21. Amends Section 102.0212, Government Code, as follows:

Sec. 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT CODE. Deletes existing text requiring a person convicted of an offense to pay, under the Local Government Code and in addition to all other costs, a time payment fee of \$25 if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after a certain date. Redesignates existing Subdivisions (5) and (6) as Subdivisions (4) and (5) and makes no further changes to these subdivisions.

SECTION 22. Amends Section 103.021, Government Code, as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. Deletes existing text requiring an accused or defendant, or a party to a civil suit, as applicable, to pay, under the Code of Criminal Procedure and if ordered by the court or otherwise required, an administrative fee for collection of fines, fees, restitution, or other costs not to exceed \$2 for each transaction. Redesignates existing Subdivisions (25) and (26) as Subdivisions (24) and (25) and makes no further changes to these subdivisions.

SECTION 23. Amends Section 133.003, Local Government Code, as follows:

Sec. 133.003. CRIMINAL FEES. Deletes existing text providing that Chapter 133 (Criminal and Civil Fees Payable to the Comptroller) applies to the time payment fee imposed under Section 133.103 (Time Payment Fee). Redesignates existing Subdivisions (3)-(10) as Subdivisions (2)-(9) and makes no further changes to these subdivisions.

SECTION 24. Amends Section 502.010, Transportation Code, by amending Subsections (a) and (c) and adding Subsections (b-1), (i), and (j), as follows:

(a) Creates an exception as otherwise provided by this section (County Scofflaw).

(b-1) Provides that information that is provided to make a determination under Subsection (a)(1) (relating to authorizing a county assessor-collector or the Texas Department of Motor Vehicles (TxDMV) to refuse to register a motor vehicle if the owner owes certain money) and that concerns the past due status of a fine or fee imposed for a criminal offense and owed to the county expires on a certain date and prohibits the information from being used to refuse registration after that date. Prohibits subsequent information about other fines or fees that are imposed for a criminal offense and that become past due before a certain date, once information about a past due fine or fee is provided under Subsection (b) (relating to authorizing a county to contract with TxDMV to provide certain information), from being used, either before or after the second anniversary of that date, to refuse registration under this section unless the motor vehicle is no longer subject to refusal of registration because of notice received under Subsection (c) (relating to certain counties notifying TxDMV about a person who has been refused vehicle registration for certain reasons).

(c) Requires a county that has a certain contract to notify TxDMV regarding a person for whom the county assessor-collector or TxDMV has refused to register a motor vehicle on the person's payment or other means of discharge, including a waiver, of the past due fine, fee, or tax.

(i) Authorizes a municipal court judge or justice of the peace (JP) who has jurisdiction over the underlying offense to waive an additional fee imposed under Subsection (f) (relating to authorizing certain counties to impose an additional \$20 fee to certain

persons) if the judge or JP makes a finding that the defendant is economically unable to pay the fee or that good cause exists for the waiver.

(j) Prohibits a county, if the 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, from imposing an additional fee on the defendant under Subsection (f).

SECTION 25. Reenacts 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, and amends it, as follows:

(f) Authorizes a county that has a contract under Subsection (b), except as otherwise provided by this section, to impose an additional fee of \$20 to certain persons. Deletes existing text authorizing the additional fee to be used only to reimburse TxDMV or the county for its expenses for providing services under the contract. Makes a nonsubstantive change.

SECTION 26. Amends Section 706.005, Transportation Code, as follows:

Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) Requires a political subdivision to immediately notify DPS that there is no cause to continue to deny renewal of a person's driver's license based on certain failures by the person, on payment of a fee as provided by Section 706.006 and, among certain other matters, 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.

(b) Prohibits DPS from continuing to deny the renewal of the person's driver's license under this chapter after DPS receives notice that, among certain other matters, the charge on which the person failed to appear was dismissed with prejudice by the appropriate prosecuting attorney for lack of evidence. Redesignates existing Subdivision (3) as Subdivision (4) and makes no further changes to this subdivision.

SECTION 27. Amends Section 706.006, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (a-1) and (d), as follows:

(a) Requires a person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) (relating to authorizing a political subdivision to contract with DPS to provide information for DPS to deny driver's license renewal of certain persons), except as provided by Subsection (d), to be required to pay an administrative fee of \$30 for each complaint or citation reported to DPS under this chapter, unless:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (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 DPS 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 record retention policy.

(a-1) Creates this subsection from existing text. Requires a person who is required to pay a fee under Subsection (a) to pay the fee when, among certain other circumstances, the underlying offense is dismissed, other than a dismissal described by Subsection (a)(2).

(b) Requires a person who fails to pay or satisfy a certain judgment, except as provided by Subsection (d), to be required to pay an administrative fee of \$30. Makes a nonsubstantive change.

(d) Prohibits the person, if the court having jurisdiction over the underlying offense makes a finding that the person is indigent, from being required to pay an administrative fee under this section. Provides that, for the purposes of this subsection, a person is presumed to be indigent if the person meets certain qualifications.

SECTION 28. Amends Section 708.152(b), Transportation Code, as follows:

(b) Provides that a license suspended under this section (Failure to Pay Surcharge) remains suspended until the earlier of the date the person pays the amount of the surcharge and any related costs or the second anniversary of the date of suspension. Makes nonsubstantive changes.

SECTION 29. Amends Section 708.154(c), Transportation Code, as follows:

(c) Provides that a license suspended under this section (Credit Card Payment of Surcharge) remains suspended until the earlier of the date the person pays the amount of the surcharge and any related costs or the second anniversary of the date of suspension. Makes nonsubstantive changes.

SECTION 30. Amends Section 708.158, Transportation Code, as follows:

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES. (a) Requires DPS, if the court having jurisdiction over an offense with respect to which a fine and cost were imposed makes a finding that the person is economically unable to pay the fine and cost, to waive all surcharges assessed under Chapter 708 (Driver Responsibility Program) for the person. Deletes existing text requiring DPS to waive all surcharges assessed under this chapter for a person who is indigent and providing that a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) Requires a person to provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is economically unable to pay the fine and cost, rather than establish that the person is indigent.

(c) Requires the court, not later than the fifth day after the date the court receives certain information, to notify DPS of the court's finding under this section.

SECTION 31. Repealer: Article 102.072 (Administrative Fee), Code of Criminal Procedure.

Repealer: Article 45.0492(e) (relating to certain requirements of a tutoring program that accepts a defendant under this article), Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011.

Repealer: Section 133.103 (Time Payment Fee), Local Government Code.

SECTION 32. Makes application of Articles 14.06 and 27.14, Code of Criminal Procedure, and Sections 502.010 and 708.158 and Chapter 706, Transportation Code, prospective.

SECTION 33. Provides that the changes in law made by this Act to Articles 42.15, 43.09, 43.091, 45.014, 45.041, 45.046, 45.049, and 45.0491, Code of Criminal Procedure, and Articles 45.0492, Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, and 45.0492, Code of Criminal Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011, apply to a sentencing proceeding that commences before, on, or after the effective date of this Act.

SECTION 34. Makes application of Articles 43.05 and 45.045, Code of Criminal Procedure, prospective.

SECTION 35. Makes application of Article 45.016, Code of Criminal Procedure, prospective.

SECTION 36. Provides that 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 37. Makes application of the repeal of Article 102.072, Code of Criminal Procedure, prospective.

SECTION 38. Provides that 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. Provides that 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. Provides that, 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 39. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 40. Effective date: September 1, 2017.