

## **BILL ANALYSIS**

Senate Research Center

S.B. 42  
By: Zaffirini  
State Affairs  
6/20/2017  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The assassination attempt against Travis County District Judge Julie Kocurek in the fall of 2015 underscored the urgent need to evaluate the state's court security policies. Shortly after this despicable incident, the Texas Office of Court Administration (OCA) sent a court security survey to judges in the state. This survey revealed that nearly two-thirds of judges do not know of, or do not have, a court security plan; more than 30 percent of judges were aware of a security incident in the year prior to completing the survey; nearly two-thirds of judges report that no court security training has been provided in their courthouse; and nearly two-thirds of judges are unaware of existing statutory security incident reporting requirements. Accordingly, the Texas Judicial Council established a Court Security Committee (CSC). This committee found serious deficiencies in the state's security posture, including a lack of court security best practices, training, and funding.

S.B. 42, named the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017, implements recommendations promulgated by the CSC, including creating the position of Director of Security and Emergency Preparedness at OCA; establishing local court security committees; requiring court security training of judges and court personnel; adding a \$5 filing fee in civil cases to pay for court security training of officers and judges at the request of OCA and to preclude an unfunded mandate; and facilitating removal of judges' personal information from public documents. These changes would improve court safety for judges, employees, and citizens in the state of Texas. (Original Author's / Sponsor's Statement of Intent)

S.B. 42 amends current law relating to the security of courts and judges in the state and establishes a fee.

### **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. Authorizes this Act to be cited as the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017.

SECTION 2. Amends Article 102.017(f), Code of Criminal Procedure, as follows:

(f) Requires the sheriff, constable, or other law enforcement agency or entity that provides security for a court, rather than requires a local administrative judge, to provide to the Office of Court Administration of the Texas Judicial System (OCA) a written report regarding any security incident involving court security that occurs in or around a building housing a court for which the sheriff, constable, agency, or entity provides security, rather than for which the judge serves as local administrative judge, not later than the third business day after the date the incident occurred. Requires that a copy of the report be provided to the presiding judge of the court in which the incident occurred. Provides that the report is confidential and exempt from disclosure under Chapter 552 (Public Information), Government Code.

SECTION 3. Amends Subchapter A, Chapter 29, Government Code, by adding Section 29.014, as follows:

Sec. 29.014. COURT SECURITY COMMITTEE. (a) Requires the presiding or municipal judge, as applicable, to establish a court security committee (CSC). Sets forth the required composition of the CSC.

(b) Provides that the presiding or municipal judge, or the judge's designee, serves as presiding officer of the CSC.

(c) Requires the CSC to establish the policies and procedures necessary to provide adequate security to the municipal courts served by the presiding or municipal judge, as applicable.

(d) Authorizes a CSC to recommend to the municipality the uses of resources and expenditures of money for courthouse security, but prohibits the CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 4. Amends Section 30.00007, Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the presiding judge, among certain other duties, to establish a CSC to adopt security policies and procedures for the courts served by the presiding judge. Sets forth the required composition of the CSC.

(c) Authorizes a CSC to recommend to the governing body the uses of resources and expenditures of money for courthouse security, but prohibits the CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 5. Amends Chapter 51, Government Code, by adding Subchapter N, as follows:

## SUBCHAPTER N. ADDITIONAL FILING FEE FOR JUDICIAL AND COURT PERSONNEL TRAINING

Sec. 51.971. JUDICIAL AND COURT PERSONNEL TRAINING FEE. (a) Requires the clerk of certain courts, in addition to other fees authorized or required by law, to collect a \$5 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third party action requiring a filing fee to be used as provided under Section 56.003 (Use of Funds).

(b) Authorizes a court to waive payment of a fee due for an individual the court determines is indigent.

(c) Requires that fees due be collected in the same manner as other fees, fines, or costs in the case.

(d) Requires the clerk of certain courts to deposit the court costs and collected fees in the appropriate local treasury and remit the court costs and fees to the Texas comptroller of public accounts (comptroller) in the manner provided under Subchapter B (Reporting, Collection, and Remittance of Fees), Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Government Code.

(e) Requires the comptroller to deposit the received fees to the credit of the judicial and court personnel training fund established under Section 56.001.

(f) Authorizes the comptroller to audit the records of a county related to collected costs and fees.

(g) Provides that money spent from collected costs and fees is subject to audit by the state auditor.

SECTION 6. Amends Section 56.003, Government Code, by adding Subsection (h), to require that the court of criminal appeals grant legal funds to statewide professional associations and other entities that provide training to individuals responsible for providing court security.

SECTION 7. Amends Section 56.004(b), Government Code, to require the legislature to appropriate funds from the judicial and court personnel training fund to the court of criminal appeals to provide for, among certain programs, court security training programs for individuals responsible for providing court security.

SECTION 8. Amends Subchapter B, Chapter 72, Government Code, by adding Sections 72.015 and 72.016, as follows:

Sec. 72.015. JUDICIAL SECURITY DIVISION. (a) Requires OCA to establish a judicial security division to provide guidance to state court personnel on improving security for each court.

(b) Requires OCA to appoint a director of security and emergency preparedness to oversee the judicial security division.

(c) Requires the judicial security division to serve as a central resource for information on local and national best practices for court security and the safety of court personnel, to provide an expert opinion on the technical aspects of court security, and to keep abreast of and provide training on recent court security improvements.

Sec. 72.016. NOTIFICATION PROCEDURE FOR JUDICIAL PRIVACY. Requires the administrative director of the courts to develop a procedure to regularly notify county registrars, the Texas Department of Public Safety (DPS), the Texas Ethics Commission (TEC), and any other state agency OCA determines should be notified of the judges, judges' spouses, and related family members whose personal information must be kept from public records, as provided under Sections 552.117 (Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information) and 572.035 of this code, Sections 13.0021 (Additional Registration Information from Certain Federal and State Judges) and 15.0215, Election Code, and Section 521.121 (General Information on Driver's License), Transportation Code.

SECTION 9. Amends Section 74.092, Government Code, as follows:

(a) Creates this subsection from existing text. Includes in certain required duties of a local administrative judge the establishment of a CSC to adopt security policies and procedures for the courts served by the local administrative district judge, and sets forth the composition of the CSC.

(b) Authorizes a CSC to recommend to the county commissioners court the uses of resources and expenditures of money for courthouse security, but prohibits a CSC from directing the assignment of those resources or the expenditure of those funds.

SECTION 10. Amends Subchapter D, Chapter 101, Government Code, by adding Section 101.06111, as follows:

Sec. 101.06111. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. Requires the clerk of a district court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 11. Amends Subchapter E, Chapter 101, Government Code, by adding Section 101.08111, as follows:

Sec. 101.08111. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory county court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 12. Amends Subchapter F, Chapter 101, Government Code, by adding Section 101.10111, as follows:

Sec. 101.10111. ADDITIONAL STATUTORY PROBATE COURT FEES: GOVERNMENT CODE. Requires the clerk of a statutory probate court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 13. Amends Subchapter G, Chapter 101, Government Code, by adding Section 101.12121, as follows:

Sec. 101.12121. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. Requires the clerk of a county court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 14. Amends Subchapter H, Chapter 101, Government Code, by adding Section 101.1411, as follows:

Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT CODE. Requires the clerk of a justice court to collect an additional filing fee of \$5 under Section 51.971 in civil cases to fund judicial and court personnel training.

SECTION 15. Amends Subtitle L, Title 2, Government Code, by adding Chapter 158, as follows:

#### CHAPTER 158. COURT SECURITY OFFICERS

Sec. 158.001. DEFINITION. Defines "court security officer."

Sec. 158.002. COURT SECURITY CERTIFICATION. (a) Prohibits a person, except as provided by Subsection (b), from serving as a court security officer for an appellate, district, statutory county, county, municipal, or justice court in this state unless the person holds a court security certification (certification) issued by a training program approved by the Texas Commission on Law Enforcement (TCOLE).

(b) Provides that a court security officer is not required to hold certification to provide security to a court described by Subsection (a) before the first anniversary of the date the officer begins providing security for the court.

Sec. 158.003. VERIFICATION. Requires the sheriff, constable, law enforcement agency, or other entity that provides security for a court to verify that each court security officer holds the required certification.

SECTION 16. Amends Subchapter D, Chapter 411, Government Code, by adding Section 411.0485, as follows:

Sec. 411.0485. PROTECTION FOR JUDGES. Authorizes any commissioned peace officer in this state, including a commissioned officer of DPS, to provide personal security to a state judge at any location in this state, regardless of the location of the law enforcement agency or department that employs or commissions the peace officer.

SECTION 17. Amends Section 552.117(a), Government Code, to include a current or former federal judge or state judge, as those terms are defined by Section 13.0021(a), Election Code, or a spouse of a current or former federal judge or state judge or a current or former district attorney, criminal district attorney, or county attorney whose jurisdiction includes any criminal law or child protective services matter, as persons whose information is excepted from the requirements of Section 552.021 (Availability of Public Information) if it is information that relates to certain personal information.

SECTION 18. Amends Section 572.002, Government Code, by adding Subdivision (11-a), to define "state judge."

SECTION 19. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.035, as follows:

Sec. 572.035. REMOVAL OF PERSONAL INFORMATION FOR FEDERAL JUDGES, STATE JUDGES, AND SPOUSES. Requires TEC, on receiving notice from OCA of the judge's qualification for the judge's office, to remove or redact from any financial statement, or information derived from a financial statement, that is available to the public the residence address of a federal judge, a state judge, or the spouse of a federal or state judge.

SECTION 20. Amends Section 13.0021(a)(2), Election Code, to redefine "state judge."

SECTION 21. Amends Section 13.0021(b), Election Code, as follows:

(b) Requires the registrar of the county, if the registration applicant is a federal judge, a state judge, or the spouse of a state judge or federal judge, to omit the applicant's residence address from the registration list, rather than requiring the applicant, if the registration applicant is a federal judge, a state judge, or the spouse of a state judge or a federal judge who seeks to have the applicant's residence address omitted from the registration list, to include with the application an affidavit stating that the applicant is a federal judge or state judge or the spouse of a federal judge or state judge.

SECTION 22. Amends Section 15.0215, Election Code, as follows:

Sec. 15.0215. New heading: OMISSION OF ADDRESS FOR FEDERAL JUDGE OR STATE JUDGE AND SPOUSE. (a) Defines "federal judge" and "state judge."

(b) Requires the registrar of the county in which the judge resides, on receiving notice from OCA of the person's qualification for office as a federal judge or state judge and of the name of the judge's spouse, if applicable, to omit from the

registration list the residence address of the judge and the spouse of the judge, rather than authorizes a federal judge, a state judge, or the spouse of a federal judge or state judge who is registered to vote, to at any time submit to the registrar of the county in which the judge resides an affidavit stating that the voter is a federal judge or state judge or the spouse of a federal judge or state judge.

(c) Authorizes a registered district voter who wishes to verify that an elected judge whose personal identifying information is confidential under Section 552.1175, Government Code, resides in the district to request in writing that the registrar certify the judge lives in the district. Requires the registrar to exercise due diligence in determining the residence of the judge and respond to the voter in writing not later than a certain date. Prohibits the registrar from releasing the address of the judge. Provides that the registrar is not required to certify the residence of the same judge more than once in a calendar year, but is required to provide copies of the certification to subsequent requestors.

SECTION 23. Amends Section 133.058(d), Local Government Code, to prohibit a county from retaining a service fee on the collection of a fee under certain sections, including, among others, under Section 51.971, Government Code.

SECTION 24. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.267, as follows:

Sec. 1701.267. TRAINING PROGRAM FOR COURT SECURITY OFFICERS. (a) Requires TCOLE, in consultation with OCA, to develop a model court security curriculum for court security officers, as required by Chapter 158, Government Code, and provide the curriculum to any training program TCOLE approves to provide training to court security officers.

(b) Requires TCOLE to issue a certificate to each court security officer who completes the training program.

SECTION 25. Amends Section 11.008, Property Code, by adding Subsection (j), to require the county clerk to omit or redact, on receipt of a written request from certain individuals, from a described instrument that is available in an online database made public by the county clerk, or by a provider with which the county commissioners court contracts to provide the online database, certain personal information of the federal judge, state judge, or spouse of the federal judge or state judge.

SECTION 26. Amends Section 25.025(b), Tax Code, as follows:

(b) Provides that information in appraisal records under Section 25.02 (Form and Content) is confidential and is available only for the official use of certain state entities if:

(1) makes no changes to this subdivision;

(2) the individual:

(A) creates this paragraph from existing text and makes no further changes to this paragraph; or

(B) is a federal or state judge as defined by Section 572.002, Government Code, or the spouse of a federal or state judge, beginning on the date OCA notifies the appraisal district of the judge's qualification for the judge's office.

SECTION 27. Amends Section 521.121(c), Transportation Code, as follows:

(c) Requires DPS, on a license holder's qualification for office as a federal or state judge, as defined by Section 572.002, Government Code, to establish a procedure to omit the residence address of the judge and the spouse of the judge on the license holder's license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. Deletes existing text requiring DPS, in establishing the procedure, to require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal or state judge.

SECTION 28. (a) Requires OCA, DPS, TEC, each county clerk, each registrar, and any other county official responsible for county records to establish, not later than January 1, 2018, the policies and procedures necessary to comply with the changes in law made by this Act.

(b) Requires that, as soon as practicable after the effective date of this Act, OCA establish the judicial security division, and that each judge required to establish a CSC under this act establish the CSC.

SECTION 29. Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), Government Code, does not apply to the imposition of a fee assessed under Section 51.971(a), Government Code, as added by this Act.

SECTION 30. Provides that a person serving as a court security officer as defined under Section 158.001, Government Code, as added by this Act, on the effective date of this Act is not required to receive the certification required under Section 158.002, Government Code, as added by this Act, before September 1, 2019.

SECTION 31. Effective date: September 1, 2017.

## **BILL ANALYSIS**

Senate Research Center

S.B. 1913  
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6/12/2017  
Enrolled

### **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)

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 regular mail, rather than 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) Requires a court, notwithstanding any other provision of this article (Fines and Costs), during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court as provided by certain articles, to inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. Requires the court, if the court determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, to determine whether the fine and costs should be paid, discharged, waived, or satisfied in certain manners.

(b) Authorizes a court, subject to Subsection (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 a 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, 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 determines that a *capias pro fine* should be issued.

(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, and the amount owed is resolved in any manner authorized by this code.

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 a 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

(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. Makes a nonsubstantive change.

(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) 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;

(2) makes no changes to this subdivision.

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, at the initial court setting, 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, 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 and that a bail bond 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) Creates this subsection from existing text. 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, rather than authorizes the defendant to be held in custody if the defendant fails to give bail.

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

(a-1) Requires the justice or judge, notwithstanding any other provision of this article (Judgment), during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court as provided by certain articles, to inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. Requires the justice or judge, if the justice or judge determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, to determine whether the fine and costs should be decided in a certain manner.

(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 determines that the *capias pro fine* should be issued.

(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, and the amount owed is resolved in any manner authorized by this chapter (Justice and Municipal Courts).

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, rather than in the justice's or judge's order requiring a defendant to participate in community service work, 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 the number of hours the defendant is required to work. Makes nonsubstantive changes.

(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 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. (a) Creates this subsection from existing text. 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 that:

(1) 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

(2) discharging the fine or costs, rather than the fine and costs, under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

(b) Provides that a defendant is presumed to be indigent or to not have sufficient resources or income to pay all or part of the fine or costs if the defendant:

(1) is in the conservatorship of the Department of Family and Protective Services (DFPS), or was in the conservatorship of DFPS at the time of the offense; or

(2) is designated as a homeless child or youth or an unaccompanied youth, as those terms are defined by 42 U.S.C. Section 11434a, or was so designated at the time of the offense.

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 the number of hours the defendant is required to work or attend tutoring. Makes nonsubstantive changes.

(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 service 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 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. Makes nonsubstantive changes.

(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 service 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 45.051(a), Code of Criminal Procedure, to provide that an order of deferral under this subsection terminates any liability under a bond, rather than a bail bond or an appearance bond, given for the charge.

SECTION 21. Amends Article 45.0511(t), Code of Criminal Procedure, to provide that an order of deferral under Subsection (c) (relating to requiring the court, after entering a judgment on a defendant's plea, to allow the defendant a certain amount of time to fulfill the driving safety course and present certain documentation to the court) terminates any liability under a bond, rather than a bail bond or appearance bond, given for the charge.

SECTION 22. 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 23. 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).

(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) 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 24. 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 25. Amends Section 706.005, Transportation Code, as follows:

Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) Requires a political subdivision to immediately notify the Texas Department of Public Safety (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 (Payment of Administrative Fee) 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 motion of 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 (Denial of Renewal of License for Failure to Appear) after DPS receives notice that, among certain other matters, the charge on which the person failed to appear was dismissed with prejudice by motion of the appropriate prosecuting attorney for lack of evidence. Redesignates existing Subdivision (3) as Subdivision (4) and makes no further changes to this subdivision.

SECTION 26. 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 records 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 27. 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.

SECTION 28. Makes application of Articles 14.06 and 27.14, Code of Criminal Procedure, and Sections 502.010 and Chapter 706, Transportation Code, as amended by this Act, prospective.

SECTION 29. 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 30. Makes application of Articles 43.05 and 45.045, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 31. Makes application of Articles 45.016, 45.051, and 45.0511, Code of Criminal Procedure as amended by this Act, prospective.

SECTION 32. 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 33. Effective date: September 1, 2017.

**FILED**

Chris Daniel  
District Clerk

OCT 04 2017



Time: \_\_\_\_\_  
By: Harris County, Texas  
Deputy: (Signature)

**HARRIS COUNTY DISTRICT COURTS  
CIVIL TRIAL DIVISION**

**ADMINISTRATIVE ORDER TO SEAL UNREDACTED RECORDS FILED PURSUANT TO  
CHAPTER 141 OF THE TEXAS CIVIL PRACTICE & REMEDIES CODE**

Effective June 15, 2017, the Texas Legislature amended Chapter 141 of the Texas Civil Practice & Remedies Code to allow for the filing of applications, other pleadings, and orders with case information, including the identity of the payee, concealed or redacted. The Board of Judges of the Civil Trial Division of the Harris County District Courts (the Civil Board) has determined that, to promote the expeditious and efficient assignment of cases to the appropriate courts, it is necessary for the District Clerk to have access to unredacted case information in matters filed pursuant to Chapter 141 of the Texas Civil Practice and Remedies Code. *See* TEX. GOV'T CODE § 21.001.

On August 8, 2017, the Civil Board voted to order the Harris County District Clerk to seal, upon receipt for filing, unredacted applications, other pleadings, and orders filed pursuant to Chapter 141 of the Texas Civil Practice and Remedies Code. *See* TEX. CIV. PRAC. & REM. CODE §141.006(d)(2)(C).

Accordingly, the Civil Board **ORDERS** petitioners filing applications for approval of transfer of structured settlement payment to electronically-file unredacted copies of the application and any exhibits pursuant to Texas Rule of Civil Procedure 21(f). After filing the initial unredacted application, petitioners may file redacted copies of pleadings.

The Civil Board further **ORDERS** the Harris County District Clerk to seal, upon receipt for filing by petitioners, the unredacted application and any exhibits.

The Civil Board also **ORDERS** that the sealed documents shall remain sealed until further order of the judge presiding over the case or the Administrative Judge of the Civil Trial Division.

Date Signed: Oct 4, 2017

In Houston, Texas

(Signature)

Sylvia A. Matthews

Administrative Judge – Civil Trial Division

**RECORDER'S MEMORANDUM**

This instrument is of poor quality  
at the time of imaging