

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Code of Criminal Procedure
Chapter 45A
12/5/22

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8 CHAPTER 45A. JUSTICE AND MUNICIPAL COURTS
9 SUBCHAPTER A. GENERAL PROVISIONS

10 Revised Law

11 Art. 45A.001. CHAPTER PURPOSE AND OBJECTIVES. (a) The
12 purpose of this chapter is to establish procedures for processing
13 cases under the criminal jurisdiction of the justice and municipal
14 courts.

15 (b) This chapter is intended and shall be construed to
16 achieve the following objectives:

17 (1) to provide fair notice and a meaningful
18 opportunity to be heard to a person appearing in a criminal
19 proceeding in a justice or municipal court;

20 (2) to ensure appropriate dignity in court procedure
21 without undue formalism;

22 (3) to promote adherence to rules with sufficient
23 flexibility to serve the ends of justice; and

24 (4) to process cases without unnecessary expense or
25 delay. (Code Crim. Proc., Art. 45.001.)

26 Source Law

27 Art. 45.001. OBJECTIVES OF CHAPTER. The
28 purpose of this chapter is to establish procedures for
29 processing cases that come within the criminal
30 jurisdiction of the justice courts and municipal
31 courts. This chapter is intended and shall be
32 construed to achieve the following objectives:

33 (1) to provide fair notice to a person
34 appearing in a criminal proceeding before a justice or
35 municipal court and a meaningful opportunity for that
36 person to be heard;

37 (2) to ensure appropriate dignity in court
38 procedure without undue formalism;

39 (3) to promote adherence to rules with
40 sufficient flexibility to serve the ends of justice;
41 and

1 (4) to process cases without unnecessary
2 expense or delay.

3 Revised Law

4 Art. 45A.002. DEFINITIONS. In this chapter:

5 (1) "Complaint" means a sworn allegation charging an
6 accused person with the commission of an offense.

7 (2) "Cost" includes any fee, including a reimbursement
8 fee, imposed on a defendant by a justice or judge, unless the
9 context clearly indicates otherwise. (Code Crim. Proc., Arts.
10 45.004, 45.018(a).)

11 Source Law

12 Art. 45.004. GENERAL DEFINITION. Unless the
13 context clearly indicates otherwise, in this chapter,
14 "cost" includes any fee, including a reimbursement
15 fee, imposed on a defendant by the justice or judge.

16 Art. 45.018. COMPLAINT. (a) For purposes of
17 this chapter, a complaint is a sworn allegation
18 charging the accused with the commission of an
19 offense.

20 Revised Law

21 Art. 45A.003. APPLICABILITY. (a) A criminal proceeding in
22 a justice or municipal court shall be conducted in accordance with
23 this chapter.

24 (b) If this chapter does not provide a rule of procedure
25 governing an aspect of a case, the justice or judge shall apply the
26 other general provisions of this code to the extent necessary to
27 achieve the objectives of this chapter. (Code Crim. Proc., Art.
28 45.002.)

29 Source Law

30 Art. 45.002. APPLICATION OF CHAPTER. Criminal
31 proceedings in the justice and municipal courts shall
32 be conducted in accordance with this chapter,
33 including any other rules of procedure specifically
34 made applicable to those proceedings by this chapter.
35 If this chapter does not provide a rule of procedure
36 governing any aspect of a case, the justice or judge
37 shall apply the other general provisions of this code
38 to the extent necessary to achieve the objectives of
39 this chapter.

40 Revisor's Note

41 Article 45.002, Code of Criminal Procedure,
42 provides that criminal proceedings in the justice and

1 municipal courts shall be conducted in accordance with
2 Chapter 45 of that code, "including any other rules of
3 procedure specifically made applicable to those
4 proceedings by [Chapter 45]." The revised law omits
5 the quoted language as unnecessary because there is no
6 reading of "[c]riminal proceedings . . . shall be
7 conducted in accordance with [Chapter 45, Code of
8 Criminal Procedure]" that would not also require the
9 proceedings to be conducted in accordance with "any
10 other rules of procedure specifically made applicable
11 to those proceedings by [Chapter 45, Code of Criminal
12 Procedure]."

13 Revised Law

14 Art. 45A.004. RULES OF EVIDENCE. The rules of evidence that
15 apply to the trial of a criminal action in a district court apply to
16 a criminal proceeding in a justice or municipal court. (Code Crim.
17 Proc., Art. 45.011.)

18 Source Law

19 Art. 45.011. RULES OF EVIDENCE. The rules of
20 evidence that govern the trials of criminal actions in
21 the district court apply to a criminal proceeding in a
22 justice or municipal court.

23 Revised Law

24 Art. 45A.005. PROSECUTING ATTORNEY. (a) A county or
25 district attorney or a deputy county or district attorney shall
26 conduct each prosecution in a justice court.

27 (b) Except as otherwise provided by law, a district attorney
28 or a deputy district attorney with the consent of the county
29 attorney may prosecute an appeal from a justice court.

30 (c) A municipal attorney or a deputy municipal attorney
31 shall conduct each prosecution in a municipal court.

32 (d) The county attorney of the county in which a
33 municipality is located may also represent the state in a
34 prosecution in a municipal court in that municipality. The county
35 attorney is not entitled to receive any fees or other compensation

1 for representing the state in a prosecution described by this
2 subsection.

3 (e) With the consent of the county attorney, a municipal
4 attorney or a deputy municipal attorney may prosecute an appeal
5 from a municipal court to a county court, county court at law, or
6 appellate court. (Code Crim. Proc., Arts. 45.101, 45.201(a), (b),
7 (c).)

8 Source Law

9 Art. 45.101. JUSTICE COURT PROSECUTIONS. (a)
10 All prosecutions in a justice court shall be conducted
11 by the county or district attorney or a deputy county
12 or district attorney.

13 (b) Except as otherwise provided by law, appeals
14 from justice court may be prosecuted by the district
15 attorney or a deputy district attorney with the
16 consent of the county attorney.

17 Art. 45.201. MUNICIPAL PROSECUTIONS. (a) All
18 prosecutions in a municipal court shall be conducted
19 by the city attorney of the municipality or by a deputy
20 city attorney.

21 (b) The county attorney of the county in which
22 the municipality is situated may, if the county
23 attorney so desires, also represent the state in such
24 prosecutions. In such cases, the county attorney is
25 not entitled to receive any fees or other compensation
26 for those services.

27 (c) With the consent of the county attorney,
28 appeals from municipal court to a county court, county
29 court at law, or any appellate court may be prosecuted
30 by the city attorney or a deputy city attorney.

31 Revisor's Note

32 (1) Articles 45.201(a) and (c), Code of Criminal
33 Procedure, refer to a "city attorney" or a "deputy city
34 attorney." Throughout this chapter, the revised law
35 substitutes "municipal attorney" for "city attorney"
36 because, in this context, the terms are synonymous and
37 "municipal attorney" is more consistent with modern
38 usage.

39 (2) Article 45.201(b), Code of Criminal
40 Procedure, provides that the county attorney of the
41 county in which a municipality is "situated" may
42 represent the state in prosecutions in a municipal
43 court in that municipality. Throughout this chapter,
44 the revised law substitutes "located" for "situated"

1 because, in this context, the terms are synonymous and
2 "located" is more commonly used in the Code of Criminal
3 Procedure.

4 Revised Law

5 Art. 45A.006. GENERAL DUTIES OF MUNICIPAL ATTORNEYS. The
6 primary duty of a municipal attorney is not to convict, but to see
7 that justice is done. (Code Crim. Proc., Art. 45.201(d).)

8 Source Law

9 (d) It is the primary duty of a municipal
10 prosecutor not to convict, but to see that justice is
11 done.

12 Revisor's Note

13 Article 45.201(d), Code of Criminal Procedure,
14 provides the primary duty of a "municipal prosecutor."
15 The revised law substitutes "municipal attorney" for
16 "municipal prosecutor" because, in this context, the
17 terms are synonymous and "municipal attorney" is more
18 consistent with modern usage.

19 SUBCHAPTER B. COURT RECORDS

20 Revised Law

21 Art. 45A.051. ELECTRONIC RECORDS. (a) Notwithstanding any
22 other law, a document issued or maintained by a justice or municipal
23 court or a notice or a citation issued by a law enforcement officer
24 may be created by electronic means, including:

- 25 (1) optical imaging;
26 (2) optical disk;
27 (3) digital imaging; or
28 (4) another electronic reproduction technique that
29 does not permit changes, additions, or deletions to the originally
30 created document.

31 (b) A justice or municipal court may use electronic means
32 to:

- 33 (1) produce a document required by law to be written;
34 (2) record an instrument, paper, or notice that is
35 permitted or required by law to be recorded or filed; or

1 (3) maintain a docket.

2 (c) Information in a docket may be processed and stored
3 using electronic data processing equipment, at the discretion of
4 the justice or judge.

5 (d) A justice or municipal court shall maintain original
6 documents as provided by law.

7 (e) An electronically recorded judgment has the same force
8 and effect as a written signed judgment.

9 (f) A record created by electronic means is an original
10 record or a certification of the original record.

11 (g) A printed copy of an optical image of the original
12 record printed from an optical disk system is an accurate copy of
13 the original record.

14 (h) A statutory requirement that a document contain the
15 signature of any person, including a judge, clerk of the court, or
16 defendant, is satisfied if the document contains that signature as
17 captured on an electronic device. (Code Crim. Proc., Arts.
18 45.012(a), (b), (c), (d), (e), (f), (h), 45.017(b).)

19 Source Law

20 Art. 45.012. ELECTRONICALLY CREATED RECORDS.

21 (a) Notwithstanding any other provision of law, a
22 document that is issued or maintained by a justice or
23 municipal court or a notice or a citation issued by a
24 law enforcement officer may be created by electronic
25 means, including optical imaging, optical disk,
26 digital imaging, or other electronic reproduction
27 technique that does not permit changes, additions, or
28 deletions to the originally created document.

29 (b) The court may use electronic means to:

30 (1) produce a document required by law to
31 be written;

32 (2) record an instrument, paper, or notice
33 that is permitted or required by law to be recorded or
34 filed; or

35 (3) maintain a docket.

36 (c) The court shall maintain original documents
37 as provided by law.

38 (d) An electronically recorded judgment has the
39 same force and effect as a written signed judgment.

40 (e) A record created by electronic means is an
41 original record or a certification of the original
42 record.

43 (f) A printed copy of an optical image of the
44 original record printed from an optical disk system is
45 an accurate copy of the original record.

46 (h) A statutory requirement that a document
47 contain the signature of any person, including a

1 judge, clerk of the court, or defendant, is satisfied
2 if the document contains that signature as captured on
3 an electronic device.

4 [Art. 45.017]

5 (b) The information in the docket may be
6 processed and stored by the use of electronic data
7 processing equipment, at the discretion of the justice
8 of the peace or the municipal court judge.

9 Revisor's Note

10 Article 45.017(b), Code of Criminal Procedure,
11 refers to the "justice of the peace or the municipal
12 court judge." Throughout this chapter, the revised law
13 substitutes "justice or judge" for the quoted language
14 for consistency in terminology used in this chapter.

15 Revised Law

16 Art. 45A.052. COURT SEAL. (a) A justice or municipal court
17 shall have a court seal.

18 (b) The impression of the court seal must be:

19 (1) attached to all papers issued out of the justice or
20 municipal court except subpoenas; and

21 (2) used to authenticate the official acts of the
22 clerk and of the recorder.

23 (c) A court seal may be created by electronic means,
24 including:

25 (1) optical imaging;

26 (2) optical disk; or

27 (3) another electronic reproduction technique that
28 does not permit changes, additions, or deletions to an original
29 document created by the same type of system. (Code Crim. Proc.,
30 Art. 45.012(g).)

31 Source Law

32 (g) A justice or municipal court shall have a
33 court seal, the impression of which must be attached to
34 all papers issued out of the court except subpoenas,
35 and which must be used to authenticate the official
36 acts of the clerk and of the recorder. A court seal may
37 be created by electronic means, including optical
38 imaging, optical disk, or other electronic
39 reproduction technique that does not permit changes,
40 additions, or deletions to an original document
41 created by the same type of system.

1 Revised Law

2 Art. 45A.053. DOCKET. The justice or judge of a justice or
3 municipal court or, if directed by the justice or judge, the clerk
4 of the court shall keep a docket containing the following
5 information:

6 (1) the style and file number of each criminal action;

7 (2) the nature of the offense charged;

8 (3) the plea offered by the defendant and the date the
9 plea was entered;

10 (4) the date the warrant, if any, was issued and the
11 return made on the warrant;

12 (5) the date the examination or trial was held;

13 (6) if a trial was held, whether it was by a jury or by
14 the justice or judge;

15 (7) the verdict of the jury, if any, and the date of
16 the verdict;

17 (8) the judgment and sentence of the court and the date
18 each was entered;

19 (9) the motion for new trial, if any, and the decision
20 made on the motion; and

21 (10) whether an appeal was taken and the date of that
22 action. (Code Crim. Proc., Art. 45.017(a).)

23 Source Law

24 Art. 45.017. CRIMINAL DOCKET. (a) The justice
25 or judge of each court, or, if directed by the justice
26 or judge, the clerk of the court, shall keep a docket
27 containing the following information:

28 (1) the style and file number of each
29 criminal action;

30 (2) the nature of the offense charged;

31 (3) the plea offered by the defendant and
32 the date the plea was entered;

33 (4) the date the warrant, if any, was
34 issued and the return made thereon;

35 (5) the date the examination or trial was
36 held, and if a trial was held, whether it was by a jury
37 or by the justice or judge;

38 (6) the verdict of the jury, if any, and
39 the date of the verdict;

40 (7) the judgment and sentence of the
41 court, and the date each was given;

42 (8) the motion for new trial, if any, and
43 the decision thereon; and

44 (9) whether an appeal was taken and the

1 date of that action.

2 Revised Law

3 Art. 45A.054. FILING BY MAIL. (a) Notwithstanding any
4 other law, for purposes of this chapter, a document is considered
5 timely filed with the clerk of a justice or municipal court if:

6 (1) the document is deposited with the United States
7 Postal Service in a first class postage prepaid envelope properly
8 addressed to the clerk on or before the date the document is
9 required to be filed with the clerk; and

10 (2) the clerk receives the document not later than the
11 10th day after the date the document is required to be filed with
12 the clerk.

13 (b) A legible postmark affixed by the United States Postal
14 Service is prima facie evidence of the date the document is
15 deposited with the United States Postal Service.

16 (c) In this article, "day" does not include Saturday,
17 Sunday, or a legal holiday. (Code Crim. Proc., Art. 45.013.)

18 Source Law

19 Art. 45.013. FILING WITH CLERK BY MAIL. (a)
20 Notwithstanding any other law, for the purposes of
21 this chapter a document is considered timely filed
22 with the clerk of a court if:

23 (1) the document is deposited with the
24 United States Postal Service in a first class postage
25 prepaid envelope properly addressed to the clerk on or
26 before the date the document is required to be filed
27 with the clerk; and

28 (2) the clerk receives the document not
29 later than the 10th day after the date the document is
30 required to be filed with the clerk.

31 (b) A legible postmark affixed by the United
32 States Postal Service is prima facie evidence of the
33 date the document is deposited with the United States
34 Postal Service.

35 (c) In this article, "day" does not include
36 Saturday, Sunday, or a legal holiday.

37 Revised Law

38 Art. 45A.055. CONFIDENTIAL RECORDS RELATED TO FINE-ONLY
39 MISDEMEANORS. (a) Except as provided by Subsections (b) and (c),
40 following the fifth anniversary of the date of a final conviction
41 of, or of a dismissal after deferral of disposition for, a
42 misdemeanor offense punishable by fine only, all records and files
43 and information stored by electronic means or otherwise, from which

1 a record or file could be generated, that are held or stored by or
2 for a justice or municipal court and relate to the person who was
3 convicted of, or who received a dismissal after deferral of
4 disposition for, the offense are confidential and may not be
5 disclosed to the public.

6 (b) Records, files, and information subject to Subsection
7 (a) may be open to inspection only:

8 (1) by a judge or court staff;

9 (2) by a criminal justice agency for a criminal
10 justice purpose, as those terms are defined by Section 411.082,
11 Government Code;

12 (3) by the Department of Public Safety;

13 (4) by the attorney representing the state;

14 (5) by the defendant or the defendant's counsel;

15 (6) if the offense is a traffic offense, by an
16 insurance company or surety company authorized to write motor
17 vehicle liability insurance in this state; or

18 (7) for the purpose of complying with a requirement
19 under federal law, including a disclosure that is required as a
20 condition of receiving federal highway funds.

21 (c) This article does not apply to records, files, and
22 information described by Subsection (a) that relate to an offense
23 that is sexual in nature, as determined by the holder of the
24 records, files, or information. (Code Crim. Proc., Art. 45.0218.)

25 Source Law

26 Art. 45.0218. CONFIDENTIAL RECORDS RELATED TO
27 FINE-ONLY MISDEMEANOR. (a) Except as provided by
28 Subsections (b) and (c), following the fifth
29 anniversary of the date of a final conviction of, or of
30 a dismissal after deferral of disposition for, a
31 misdemeanor offense punishable by fine only, all
32 records and files and information stored by electronic
33 means or otherwise, from which a record or file could
34 be generated, that are held or stored by or for a
35 municipal or justice court and relate to the person who
36 was convicted of, or who received a dismissal after
37 deferral of disposition for, the offense are
38 confidential and may not be disclosed to the public.

39 (b) Records, files, and information subject to
40 Subsection (a) may be open to inspection only:

41 (1) by judges or court staff;

42 (2) by a criminal justice agency for a

1 criminal justice purpose, as those terms are defined
2 by Section 411.082, Government Code;

3 (3) by the Department of Public Safety;
4 (4) by the attorney representing the
5 state;

6 (5) by the defendant or the defendant's
7 counsel;

8 (6) if the offense is a traffic offense, an
9 insurance company or surety company authorized to
10 write motor vehicle liability insurance in this state;
11 or

12 (7) for the purpose of complying with a
13 requirement under federal law or if federal law
14 requires the disclosure as a condition of receiving
15 federal highway funds.

16 (c) This article does not apply to records,
17 files, and information described by Subsection (a)
18 that relate to an offense that is sexual in nature, as
19 determined by the holder of the records, files, or
20 information.

21 SUBCHAPTER C. PRETRIAL PROCEEDINGS

22 Revised Law

23 Art. 45A.101. COMPLAINT. (a) A complaint is sufficient,
24 without regard to form, if the complaint substantially satisfies
25 the following requirements:

26 (1) is in writing;

27 (2) begins with "In the name and by the authority of
28 the State of Texas";

29 (3) either:

30 (A) states the name of the accused person; or

31 (B) if the name of the accused person is unknown,
32 includes a reasonably definite description of the accused person;

33 (4) either:

34 (A) shows that the accused person has committed
35 an offense against the law of this state; or

36 (B) states that the affiant has good reason to
37 believe and does believe that the accused person has committed an
38 offense against the law of this state;

39 (5) states the date the offense was committed as
40 definitely as the affiant is able to provide;

41 (6) bears the signature or mark of the affiant; and

42 (7) concludes with the words "Against the peace and
43 dignity of the State."

44 (b) If the offense charged is an offense under a municipal

1 ordinance only, the complaint may also conclude with the words
2 "Contrary to the said ordinance."

3 (c) A complaint must allege that the offense was committed:

4 (1) in the county in which the complaint is made, if
5 filed in justice court; or

6 (2) in the territorial limits of the municipality in
7 which the complaint is made, if filed in municipal court.

8 (d) A complaint may be sworn to before any officer
9 authorized to administer oaths.

10 (e) A complaint in a municipal court may be sworn to before:

11 (1) the municipal judge;

12 (2) the clerk of the court or a deputy clerk;

13 (3) the municipal secretary; or

14 (4) the municipal attorney or a deputy municipal
15 attorney.

16 (f) In a county with a population of more than two million
17 that does not have a county attorney, a complaint for an offense
18 under Section 32.41, Penal Code, must be approved by the district
19 attorney, regardless of whether a collection proceeding is
20 initiated by the district attorney under Subsection (e) of that
21 section.

22 (g) A defendant is entitled to notice of a complaint against
23 the defendant not later than the day before the date of any
24 proceeding in the prosecution of the defendant under the complaint.
25 The defendant may waive the right to notice granted by this
26 subsection. (Code Crim. Proc., Arts. 45.018(b), 45.019(a), (b),
27 (c), (d), (e), (g).)

28 Source Law

29 [Art. 45.018]

30 (b) A defendant is entitled to notice of a
31 complaint against the defendant not later than the day
32 before the date of any proceeding in the prosecution of
33 the defendant under the complaint. The defendant may
34 waive the right to notice granted by this subsection.

35 Art. 45.019. REQUISITES OF COMPLAINT. (a) A
36 complaint is sufficient, without regard to its form,
37 if it substantially satisfies the following
38 requisites:

39 (1) it must be in writing;

1 (2) it must commence "In the name and by
2 the authority of the State of Texas";

3 (3) it must state the name of the accused,
4 if known, or if unknown, must include a reasonably
5 definite description of the accused;

6 (4) it must show that the accused has
7 committed an offense against the law of this state, or
8 state that the affiant has good reason to believe and
9 does believe that the accused has committed an offense
10 against the law of this state;

11 (5) it must state the date the offense was
12 committed as definitely as the affiant is able to
13 provide;

14 (6) it must bear the signature or mark of
15 the affiant; and

16 (7) it must conclude with the words
17 "Against the peace and dignity of the State" and, if
18 the offense charged is an offense only under a
19 municipal ordinance, it may also conclude with the
20 words "Contrary to the said ordinance".

21 (b) A complaint filed in justice court must
22 allege that the offense was committed in the county in
23 which the complaint is made.

24 (c) A complaint filed in municipal court must
25 allege that the offense was committed in the
26 territorial limits of the municipality in which the
27 complaint is made.

28 (d) A complaint may be sworn to before any
29 officer authorized to administer oaths.

30 (e) A complaint in municipal court may be sworn
31 to before:

- 32 (1) the municipal judge;
33 (2) the clerk of the court or a deputy
34 clerk;
35 (3) the city secretary; or
36 (4) the city attorney or a deputy city
37 attorney.

38 (g) In a county with a population of more than
39 two million that does not have a county attorney, a
40 complaint for an offense under Section 32.41, Penal
41 Code, must be approved by the district attorney,
42 regardless of whether a collection proceeding is
43 initiated by the district attorney under Section
44 32.41(e), Penal Code.

45 Revisor's Note

46 Article 45.019(e), Code of Criminal Procedure,
47 refers to the "city secretary." The revised law
48 substitutes "municipal secretary" for "city
49 secretary" for the reason stated in Revisor's Note (1)
50 to Article 45A.005.

51 Revised Law

52 Art. 45A.102. OBJECTION TO CHARGING INSTRUMENT. If the
53 defendant does not object to a defect, error, or irregularity of
54 form or substance in a charging instrument before the date the trial
55 on the merits begins, the defendant waives and forfeits the right to

1 object to the defect, error, or irregularity. This article does not
2 prohibit a trial court from requiring that an objection to a
3 charging instrument be made at an earlier time. (Code Crim. Proc.,
4 Art. 45.019(f).)

5 Source Law

6 (f) If the defendant does not object to a
7 defect, error, or irregularity of form or substance in
8 a charging instrument before the date on which the
9 trial on the merits commences, the defendant waives
10 and forfeits the right to object to the defect, error,
11 or irregularity. Nothing in this article prohibits a
12 trial court from requiring that an objection to a
13 charging instrument be made at an earlier time.

14 Revisor's Note

15 Article 45.019(f), Code of Criminal Procedure,
16 provides that nothing in "this article" prohibits a
17 court from requiring certain objections to a charging
18 instrument to be made earlier than the date on which
19 the trial on the merits commences. The revised law
20 retains the reference to "this article" because the
21 only provisions that could possibly be read to limit a
22 court's ability to require objections to be made at a
23 certain time are revised in this article.

24 Revised Law

25 Art. 45A.103. SERVICE OF PROCESS FOR MUNICIPAL COURT. (a)
26 All process issued by a municipal court:

27 (1) may be served by a peace officer or marshal of the
28 municipality in which the court is located; and

29 (2) shall be served by a peace officer or marshal
30 described by Subdivision (1) if directed by the court.

31 (b) Process must be served under Subsection (a) in
32 accordance with the law governing a sheriff's or constable's
33 service of process issued by a justice court, as applicable.

34 (c) A peace officer or marshal of a municipality may serve
35 process issued by a municipal court in that municipality anywhere
36 in the county or counties in which the municipality is located.

37 (Code Crim. Proc., Art. 45.202.)

1 that does not have a county attorney, a justice or judge may not
2 issue a warrant under this article for an offense under Section
3 32.41, Penal Code, unless the district attorney has approved the
4 complaint or affidavit on which the warrant is based.

5 (e) A justice or judge may not issue an arrest warrant for
6 the defendant's failure to appear at the initial court setting,
7 including failure to appear as required by a citation issued under
8 Article 14.06(b), unless:

9 (1) the justice or judge provides by telephone or
10 regular mail to the defendant notice that includes:

11 (A) a date and time, occurring within the 30-day
12 period following the date that notice is provided, when the
13 defendant must appear before the justice or judge;

14 (B) the name and address of the court with
15 jurisdiction in the case;

16 (C) information regarding alternatives to the
17 full payment of any fines or costs owed by the defendant, if the
18 defendant is unable to pay that amount;

19 (D) a statement that the defendant may be
20 entitled to a credit toward any fines or costs owed by the defendant
21 if the defendant was confined in jail or prison after the commission
22 of the offense for which the notice is given; and

23 (E) an explanation of the consequences if the
24 defendant fails to appear before the justice or judge as required by
25 this article; and

26 (2) the defendant fails to appear before the justice
27 or judge as required by this article.

28 (f) A defendant who receives notice under Subsection (e) may
29 request an alternative date or time to appear before the justice or
30 judge if the defendant is unable to appear on the date and time
31 included in the notice.

32 (g) A justice or judge shall recall an arrest warrant for
33 the defendant's failure to appear if the defendant voluntarily
34 appears and makes a good faith effort to resolve the arrest warrant

1 before the warrant is executed. (Code Crim. Proc., Art. 45.014, as
2 amended Acts 85th Leg., R.S., Ch. 1127.)

3 Source Law

4 Art. 45.014. WARRANT OF ARREST. (a) When a
5 sworn complaint or affidavit based on probable cause
6 has been filed before the justice or municipal court,
7 the justice or judge may issue a warrant for the arrest
8 of the accused and deliver the same to the proper
9 officer to be executed.

10 (b) The warrant is sufficient if:

11 (1) it is issued in the name of "The State
12 of Texas";

13 (2) it is directed to the proper peace
14 officer or some other person specifically named in the
15 warrant;

16 (3) it includes a command that the body of
17 the accused be taken, and brought before the authority
18 issuing the warrant, at the time and place stated in
19 the warrant;

20 (4) it states the name of the person whose
21 arrest is ordered, if known, or if not known, it
22 describes the person as in the complaint;

23 (5) it states that the person is accused of
24 some offense against the laws of this state, naming the
25 offense; and

26 (6) it is signed by the justice or judge,
27 naming the office of the justice or judge in the body
28 of the warrant or in connection with the signature of
29 the justice or judge.

30 (c) Chapter 15 applies to a warrant of arrest
31 issued under this article, except as inconsistent or
32 in conflict with this chapter.

33 (d) In a county with a population of more than
34 two million that does not have a county attorney, a
35 justice or judge may not issue a warrant under this
36 section for an offense under Section 32.41, Penal
37 Code, unless the district attorney has approved the
38 complaint or affidavit on which the warrant is based.

39 (e) A justice or judge may not issue an arrest
40 warrant for the defendant's failure to appear at the
41 initial court setting, including failure to appear as
42 required by a citation issued under Article 14.06(b),
43 unless:

44 (1) the justice or judge provides by
45 telephone or regular mail to the defendant notice that
46 includes:

47 (A) a date and time, occurring within
48 the 30-day period following the date that notice is
49 provided, when the defendant must appear before the
50 justice or judge;

51 (B) the name and address of the court
52 with jurisdiction in the case;

53 (C) information regarding
54 alternatives to the full payment of any fine or costs
55 owed by the defendant, if the defendant is unable to
56 pay that amount;

57 (D) a statement that the defendant
58 may be entitled to a credit toward any fine or costs
59 owed by the defendant if the defendant was confined in
60 jail or prison after the commission of the offense for
61 which the notice is given; and

62 (E) an explanation of the
63 consequences if the defendant fails to appear before
64 the justice or judge as required by this article; and

1 (2) the defendant fails to appear before
2 the justice or judge as required by this article.

3 (f) A defendant who receives notice under
4 Subsection (e) may request an alternative date or time
5 to appear before the justice or judge if the defendant
6 is unable to appear on the date and time included in
7 the notice.

8 (g) [as added Acts 85th Leg., R.S., Ch. 1127] A
9 justice or judge shall recall an arrest warrant for the
10 defendant's failure to appear if the defendant
11 voluntarily appears and makes a good faith effort to
12 resolve the arrest warrant before the warrant is
13 executed.

14 Revisor's Note

15 (1) Articles 45.014(a) and (b), Code of Criminal
16 Procedure, refer to the "accused." The revised law
17 substitutes "defendant" for "accused" because, in this
18 context, the terms are synonymous and "defendant" is
19 more commonly used in the Code of Criminal Procedure.

20 (2) Article 45.014(b), Code of Criminal
21 Procedure, refers to the "person whose arrest is
22 ordered" and the "person" who is accused. For clarity
23 and consistency in terminology, the revised law
24 substitutes "defendant" for the quoted language
25 because it is clear from the context that the person
26 whose arrest is ordered and the person who is accused
27 is the defendant for whom the warrant is issued.

28 (3) Article 45.014(d), Code of Criminal
29 Procedure, prohibits a justice or judge in certain
30 counties from issuing a warrant under that "section"
31 for an offense under Section 32.41, Penal Code,
32 without first obtaining the approval of a district
33 attorney. The quoted language is a drafting error
34 because Chapter 45, Code of Criminal Procedure, is
35 organized in articles rather than sections. The
36 revised law is drafted accordingly.

37 (4) Article 45.014(g), Code of Criminal
38 Procedure, as added by Section 9, Chapter 977 (H.B.
39 351), Acts of the 85th Legislature, Regular Session,
40 2017, requires a justice or judge to recall an arrest

1 warrant for the defendant's failure to appear if,
2 before the arrest warrant is executed, the defendant
3 voluntarily appears to resolve the warrant and the
4 arrest warrant is resolved. Article 45.014(g), Code
5 of Criminal Procedure, as added by Section 8, Chapter
6 1127 (S.B. 1913), Acts of the 85th Legislature,
7 Regular Session, 2017, imposes the same requirement in
8 every respect except that, instead of actually
9 resolving the arrest warrant, the defendant need only
10 make a good faith effort to resolve the warrant.
11 Because Article 45.014(g), as added by Chapter 977,
12 has more onerous requirements than Article 45A.014(g),
13 as added by Chapter 1127, the statutes are
14 irreconcilable. Under Section 311.025, Government
15 Code (Code Construction Act), if statutes enacted at
16 the same or different sessions of the legislature are
17 irreconcilable, the statute latest in date of
18 enactment prevails. The date of enactment is the date
19 on which the last legislative vote is taken on the bill
20 enacting the statute. The last legislative vote on
21 Chapter 977 was taken on May 26, 2017. The last
22 legislative vote on Chapter 1127 was taken on May 28,
23 2017. Accordingly, the revised law omits Article
24 45.014(g), as added by Chapter 977, as superseded by
25 Article 45.014(g), as added by Chapter 1127. The
26 omitted law reads:

27 (g) [as added Acts 85th Leg., R.S.,
28 Ch. 977] A justice or judge shall recall an
29 arrest warrant for the defendant's failure
30 to appear if, before the arrest warrant is
31 executed:

32 (1) the defendant voluntarily
33 appears to resolve the arrest warrant; and
34 (2) the arrest warrant is
35 resolved in any manner authorized by this
36 code.

37 Revised Law

38 Art. 45A.105. ARREST WARRANT WITHOUT COMPLAINT. If a

1 criminal offense that a justice of the peace has jurisdiction to try
2 is committed within the view of the justice, the justice may issue a
3 warrant for the arrest of the offender. (Code Crim. Proc., Art.
4 45.103.)

5 Source Law

6 Art. 45.103. WARRANT WITHOUT COMPLAINT. If a
7 criminal offense that a justice of the peace has
8 jurisdiction to try is committed within the view of the
9 justice, the justice may issue a warrant for the arrest
10 of the offender.

11 Revised Law

12 Art. 45A.106. DEFENDANT PLACED IN JAIL. If a peace officer
13 is authorized by this title to retain a defendant in custody, the
14 officer may place the defendant in jail in accordance with this code
15 or other law. (Code Crim. Proc., Art. 45.015.)

16 Source Law

17 Art. 45.015. DEFENDANT PLACED IN JAIL.
18 Whenever, by the provisions of this title, the peace
19 officer is authorized to retain a defendant in
20 custody, the peace officer may place the defendant in
21 jail in accordance with this code or other law.

22 Revised Law

23 Art. 45A.107. BAIL. (a) A justice or judge may require a
24 defendant to give a personal bond to secure the defendant's
25 appearance in accordance with this code.

26 (b) A justice or judge may not, either instead of or in
27 addition to the personal bond, require a defendant to give a bail
28 bond unless:

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

31 (2) the justice or judge determines that:

32 (A) the defendant has sufficient resources or
33 income to give a bail bond; and

34 (B) a bail bond is necessary to secure the
35 defendant's appearance in accordance with this code.

36 (c) If a defendant required to give a bail bond in
37 accordance with Subsection (b) does not give the bail bond within 48
38 hours after the issuance of the applicable order, the justice or

1 judge:

2 (1) shall reconsider the requirement for the defendant
3 to give the bail bond and presume that the defendant does not have
4 sufficient resources or income to give the bond; and

5 (2) may require the defendant to give a personal bond.

6 (d) A defendant may be held in custody if the defendant:

7 (1) refuses to give a personal bond; or

8 (2) except as provided by Subsection (c), refuses or
9 otherwise fails to give a bail bond. (Code Crim. Proc., Art.
10 45.016, as amended Acts 85th Leg., R.S., Ch. 1127.)

11 Source Law

12 Art. 45.016. PERSONAL BOND; BAIL BOND. (a) The
13 justice or judge may require the defendant to give a
14 personal bond to secure the defendant's appearance in
15 accordance with this code.

16 (b) The justice or judge may not, either instead
17 of or in addition to the personal bond, require a
18 defendant to give a bail bond unless:

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

22 (2) the justice or judge determines that:

23 (A) the defendant has sufficient
24 resources or income to give a bail bond; and

25 (B) a bail bond is necessary to
26 secure the defendant's appearance in accordance with
27 this code.

28 (c) [as added Acts 85th Leg., R.S., Ch. 1127] If
29 before the expiration of a 48-hour period following
30 the issuance of the applicable order a defendant
31 described by Subsections (b)(1) and (2) does not give a
32 required bail bond, the justice or judge:

33 (1) shall reconsider the requirement for
34 the defendant to give the bail bond and presume that
35 the defendant does not have sufficient resources or
36 income to give the bond; and

37 (2) may require the defendant to give a
38 personal bond.

39 (d) If the defendant refuses to give a personal
40 bond or, except as provided by Subsection (c), refuses
41 or otherwise fails to give a bail bond, the defendant
42 may be held in custody.

43 Revisor's Note

44 Article 45.016(c), Code of Criminal Procedure, as
45 added by Section 10, Chapter 977 (H.B. 351), Acts of
46 the 85th Legislature, Regular Session, 2017, requires
47 a justice or judge to reconsider a requirement that a
48 defendant give a bail bond under certain
49 circumstances. Article 45.016(c), Code of Criminal

1 Procedure, as added by Section 9, Chapter 1127 (S.B.
2 1913), Acts of the 85th Legislature, Regular Session,
3 2017, imposes the same requirement under the same
4 circumstances, except that the article also requires
5 the justice or judge to presume that the defendant does
6 not have sufficient resources or income to give the
7 bond and permits the justice or judge to require the
8 defendant to give a personal bond instead. Because
9 Article 45.016(c), as added by Chapter 1127, is more
10 specific in its requirements as compared to Article
11 45.016(c), as added by Chapter 977, the statutes are
12 irreconcilable. The revised law omits Article
13 45.016(c), as added by Chapter 977, as superseded by
14 Article 45.016(c), as added by Chapter 1127, for the
15 reason stated in Revisor's Note (4) to Article 45A.104.
16 The omitted law reads:

17 (c) [as added Acts 85th Leg., R.S.,
18 Ch. 977] If a defendant required to give a
19 bail bond under Subsection (b) remains in
20 custody, without giving the bond, for more
21 than 48 hours after the issuance of the
22 applicable order, the justice or judge
23 shall reconsider the requirement for the
24 defendant to give the bond.

25 Revised Law

26 Art. 45A.108. FELONY OFFENSE COMMITTED IN ANOTHER COUNTY.
27 If a complaint is made before a justice of the peace that a felony
28 has been committed in a county other than the county in which the
29 complaint is made, the justice shall issue a warrant for the arrest
30 of the defendant, directed as provided in other cases, commanding
31 that the defendant be arrested and taken before a magistrate of the
32 county in which the felony is alleged to have been committed,
33 immediately, for examination as provided in other cases. (Code
34 Crim. Proc., Art. 45.102.)

35 Source Law

36 Art. 45.102. OFFENSES COMMITTED IN ANOTHER
37 COUNTY. Whenever complaint is made before any justice
38 of the peace that a felony has been committed in any
39 other than a county in which the complaint is made, the

1 justice shall issue a warrant for the arrest of the
2 accused, directed as in other cases, commanding that
3 the accused be arrested and taken before any
4 magistrate of the county where such felony is alleged
5 to have been committed, forthwith, for examination as
6 in other cases.

7 Revisor's Note

8 (1) Article 45.102, Code of Criminal Procedure,
9 refers to the "accused." The revised law substitutes
10 "defendant" for "accused" for the reason stated in
11 Revisor's Note (1) to Article 45A.104.

12 (2) Article 45.102, Code of Criminal Procedure,
13 provides that under certain circumstances a defendant
14 shall be arrested and taken before a magistrate
15 "forthwith" for examination. The revised law
16 substitutes "immediately" for "forthwith" because, in
17 this context, the terms are synonymous and
18 "immediately" is more consistent with modern usage.

19 SUBCHAPTER D. TRIAL

20 Revised Law

21 Art. 45A.151. DEFENDANT'S PLEA. (a) A pleading of a
22 defendant in a justice or municipal court may be oral or in writing
23 as directed by the court.

24 (b) After a jury is impaneled, or after the defendant has
25 waived trial by jury, the defendant may enter:

26 (1) a plea of guilty, not guilty, or nolo contendere;
27 or

28 (2) a special plea of double jeopardy as described by
29 Article 27.05.

30 (c) If a defendant is detained in jail before trial, the
31 justice or judge may permit the defendant to enter any of the pleas
32 described by Subsection (b).

33 (d) If a defendant is charged with an offense involving
34 family violence, as defined by Section 71.004, Family Code, the
35 justice or judge must take the defendant's plea in open court.
36 (Code Crim. Proc., Arts. 45.021, 45.0211, 45.023(a), (b).)

1 Source Law

2 Art. 45.021. PLEADINGS. All pleading of the
3 defendant in justice or municipal court may be oral or
4 in writing as the court may direct.

5 Art. 45.0211. PLEA BY DEFENDANT CHARGED WITH
6 FAMILY VIOLENCE OFFENSE. (a) In this article, "family
7 violence" has the meaning assigned by Section 71.004,
8 Family Code.

9 (b) If a defendant is charged with an offense
10 involving family violence, the judge or justice must
11 take the defendant's plea in open court.

12 Art. 45.023. DEFENDANT'S PLEA. (a) After the
13 jury is impaneled, or after the defendant has waived
14 trial by jury, the defendant may:

15 (1) plead guilty or not guilty;

16 (2) enter a plea of nolo contendere; or

17 (3) enter the special plea of double
18 jeopardy as described by Article 27.05.

19 (b) If a defendant is detained in jail before
20 trial, the justice or judge may permit the defendant to
21 enter any of the pleas described by Subsection (a).

22 Revised Law

23 Art. 45A.152. DEFENDANT'S REFUSAL TO PLEAD. If a defendant
24 refuses to plead, the justice or judge shall enter a plea of not
25 guilty. (Code Crim. Proc., Art. 45.024.)

26 Source Law

27 Art. 45.024. DEFENDANT'S REFUSAL TO PLEAD. The
28 justice or judge shall enter a plea of not guilty if
29 the defendant refuses to plead.

30 Revised Law

31 Art. 45A.153. PLEA OF GUILTY OR NOLO CONTENDERE GENERALLY.

32 (a) On the entry of a plea of guilty or nolo contendere, the justice
33 or municipal court may hear proof regarding the offense and assess
34 the punishment.

35 (b) A justice or judge may not accept a plea of guilty or
36 nolo contendere from a defendant in open court unless it appears to
37 the justice or judge that the defendant is mentally competent and
38 the plea is free and voluntary. (Code Crim. Proc., Arts. 45.022,
39 45.0241.)

40 Source Law

41 Art. 45.022. PLEA OF GUILTY OR NOLO CONTENDERE.
42 Proof as to the offense may be heard upon a plea of
43 guilty or a plea of nolo contendere and the punishment
44 assessed by the court.

45 Art. 45.0241. ACCEPTANCE OF DEFENDANT'S PLEA. A
46 justice or judge may not accept a plea of guilty or

1 plea of nolo contendere from a defendant in open court
2 unless it appears to the justice or judge that the
3 defendant is mentally competent and the plea is free
4 and voluntary.

5 Revised Law

6 Art. 45A.154. PLEA OF GUILTY OR NOLO CONTENDERE BY
7 DEFENDANT IN JAIL. (a) If a defendant who is detained in jail
8 enters a plea of guilty or nolo contendere, the justice or judge
9 may, after complying with Article 15.17 and advising the defendant
10 of the defendant's right to trial by jury, as appropriate:

11 (1) accept the defendant's plea;

12 (2) assess a fine, determine costs, and accept payment
13 of the fine and costs;

14 (3) give the defendant credit for time served;

15 (4) determine whether the defendant is indigent; or

16 (5) discharge the defendant.

17 (b) Notwithstanding Article 45A.201(a), following a plea of
18 guilty or nolo contendere entered by a defendant detained in jail, a
19 motion for new trial must be made not later than the 10th day after
20 the imposition of judgment and sentence. The justice or judge shall
21 grant a motion for new trial made under this subsection. (Code
22 Crim. Proc., Arts. 45.023(c), (d).)

23 Source Law

24 (c) If a defendant who is detained in jail
25 enters a plea of guilty or nolo contendere, the justice
26 or judge may, after complying with Article 15.17 and
27 advising the defendant of the defendant's right to
28 trial by jury, as appropriate:

29 (1) accept the defendant's plea;

30 (2) assess a fine, determine costs, and
31 accept payment of the fine and costs;

32 (3) give the defendant credit for time
33 served;

34 (4) determine whether the defendant is
35 indigent; or

36 (5) discharge the defendant.

37 (d) Notwithstanding Article 45.037, following a
38 plea of guilty or nolo contendere entered under
39 Subsection (b), a motion for new trial must be made not
40 later than 10 days after the rendition of judgment and
41 sentence, and not afterward. The justice or judge
42 shall grant a motion for new trial made under this
43 subsection.

44 Revisor's Note

45 Article 45.023(d), Code of Criminal Procedure,

1 refers to a plea "entered under Subsection (b)." It is
2 clear from the context provided by Article 45.023(b),
3 revised as Article 45A.151(c) of this chapter, and
4 Article 45.023(c), revised as Subsection (a) of this
5 article, that a defendant entering a plea under
6 Article 45.023(b) is a defendant who is detained in
7 jail. For clarity and convenience of the reader, the
8 revised law substitutes "entered by a defendant
9 detained in jail" for "entered under Subsection (b)"
10 because that subsection authorizes the entry of a plea
11 of guilty or nolo contendere only in relation to a
12 defendant who is detained in jail.

13 Revised Law

14 Art. 45A.155. JURY WAIVER. (a) A defendant may waive a
15 trial by jury in writing.

16 (b) If a defendant waives a trial by jury, the justice or
17 judge shall hear and determine the case without a jury. (Code Crim.
18 Proc., Art. 45.025.)

19 Source Law

20 Art. 45.025. DEFENDANT MAY WAIVE JURY. The
21 accused may waive a trial by jury in writing. If the
22 defendant waives a trial by jury, the justice or judge
23 shall hear and determine the cause without a jury.

24 Revisor's Note

25 (1) Article 45.025, Code of Criminal Procedure,
26 refers to the "accused." The revised law substitutes
27 "defendant" for "accused" for the reason stated in
28 Revisor's Note (1) to Article 45A.104.

29 (2) Article 45.025, Code of Criminal Procedure,
30 refers to a "cause." Throughout this chapter, the
31 revised law substitutes "case" for "cause" for
32 consistency in terminology and because, in this
33 context, the terms are synonymous and "case" is more
34 consistent with modern usage.

1 Revised Law

2 Art. 45A.156. JURY SUMMONED. (a) If a defendant does not
3 waive a trial by jury, the justice or judge shall issue a writ
4 commanding the proper officer to summon a venire from which six
5 qualified persons shall be selected to serve as jurors in the case.

6 (b) Jurors summoned as provided by Subsection (a) shall
7 remain in attendance, as jurors in all cases that may come up for
8 hearing, until discharged by the justice or municipal court.

9 (c) A person summoned as provided by Subsection (a) who
10 fails to attend may be fined an amount not to exceed \$100 for
11 contempt.

12 (d) If a sufficient number of jurors are not in attendance
13 as a result of challenges or any other reason, the justice or judge
14 shall order the proper officer to summon a sufficient number of
15 qualified persons to form the jury. (Code Crim. Proc., Arts.
16 45.027, 45.028.)

17 Source Law

18 Art. 45.027. JURY SUMMONED. (a) If the accused
19 does not waive a trial by jury, the justice or judge
20 shall issue a writ commanding the proper officer to
21 summon a venire from which six qualified persons shall
22 be selected to serve as jurors in the case.

23 (b) The jurors when so summoned shall remain in
24 attendance as jurors in all cases that may come up for
25 hearing until discharged by the court.

26 (c) Any person so summoned who fails to attend
27 may be fined an amount not to exceed \$100 for contempt.

28 Art. 45.028. OTHER JURORS SUMMONED. If, from
29 challenges or any other cause, a sufficient number of
30 jurors are not in attendance, the justice or judge
31 shall order the proper officer to summon a sufficient
32 number of qualified persons to form the jury.

33 Revisor's Note

34 Article 45.027, Code of Criminal Procedure,
35 refers to the "accused." The revised law substitutes
36 "defendant" for "accused" for the reason stated in
37 Revisor's Note (1) to Article 45A.104.

38 Revised Law

39 Art. 45A.157. FAILURE TO APPEAR FOR JURY TRIAL. (a) A
40 justice or municipal court may order a defendant who does not waive
41 a jury trial in a justice or municipal court and who fails to appear

1 for the trial to pay a reimbursement fee for the costs incurred for
2 impaneling the jury.

3 (b) The justice or municipal court for good cause may
4 release a defendant from the obligation to pay the reimbursement
5 fee under this article.

6 (c) An order issued by a justice or municipal court under
7 this article may be enforced by contempt as provided by Section
8 21.002(c), Government Code. (Code Crim. Proc., Art. 45.026.)

9 Source Law

10 Art. 45.026. JURY TRIAL; FAILURE TO APPEAR. (a)
11 A justice or municipal court may order a party who does
12 not waive a jury trial in a justice or municipal court
13 and who fails to appear for the trial to pay a
14 reimbursement fee for the costs incurred for
15 impaneling the jury.

16 (b) The justice or municipal court may release a
17 party from the obligation to pay the reimbursement fee
18 under this section for good cause.

19 (c) An order issued by a justice or municipal
20 court under this section may be enforced by contempt as
21 prescribed by Section 21.002(c), Government Code.

22 Revisor's Note

23 (1) Articles 45.026(a) and (b), Code of Criminal
24 Procedure, refer to a "party." The revised law
25 substitutes "defendant" for "party" because, in this
26 context, the terms are synonymous and "defendant" is
27 more commonly used in the Code of Criminal Procedure.

28 (2) Articles 45.026(b) and (c), Code of Criminal
29 Procedure, refer to an obligation to pay the
30 reimbursement fee and an order issued by a justice or
31 municipal court, respectively, under "this section."
32 The revised law substitutes "article" for "section"
33 for the reason stated in Revisor's Note (3) to Article
34 45A.104.

35 Revised Law

36 Art. 45A.158. ATTORNEY REPRESENTING STATE NOT PRESENT FOR
37 TRIAL. If an attorney representing the state is not present when
38 the case is called for trial, the justice or judge may:

39 (1) postpone the trial to a specified date;

1 (2) appoint an attorney pro tem as provided by this
2 code to represent the state; or

3 (3) proceed to trial. (Code Crim. Proc., Art. 45.031.)

4 Source Law

5 Art. 45.031. COUNSEL FOR STATE NOT PRESENT. If
6 the state is not represented by counsel when the case
7 is called for trial, the justice or judge may:

8 (1) postpone the trial to a date certain;
9 (2) appoint an attorney pro tem as
10 provided by this code to represent the state; or
11 (3) proceed to trial.

12 Revisor's Note

13 (1) Article 45.031, Code of Criminal Procedure,
14 refers to "counsel" for the state. For consistency in
15 terminology, the revised law substitutes "attorney
16 representing the state" for "counsel" because, in this
17 context, the terms are synonymous and "attorney
18 representing the state" is more commonly used in the
19 Code of Criminal Procedure.

20 [[E.g. 86C2(3), Art. 56A.051 RN(6)]]

21 (2) Article 45.031, Code of Criminal Procedure,
22 states that under certain circumstances a justice or
23 judge may postpone the trial to a "date certain." The
24 revised law substitutes "specified date" for "date
25 certain" because, in this context, the phrases have
26 the same meaning and "specified date" is more
27 consistent with modern usage.

28 Revised Law

29 Art. 45A.159. JURY SELECTION AND FORMATION. (a) In a jury
30 trial in a justice or municipal court, the state, and each defendant
31 in the case, is entitled to three peremptory challenges.

32 (b) The justice or judge shall form the jury and administer
33 the appropriate oath in accordance with Chapter 35. (Code Crim.
34 Proc., Arts. 45.029, 45.030.)

35 Source Law

36 Art. 45.029. PEREMPTORY CHALLENGES. In all
37 jury trials in a justice or municipal court, the state
38 and each defendant in the case is entitled to three

1 peremptory challenges.

2 Art. 45.030. FORMATION OF JURY. The justice or
3 judge shall form the jury and administer the
4 appropriate oath in accordance with Chapter 35.

5 Revised Law

6 Art. 45A.160. DEFENDANT'S RIGHT TO ATTORNEY. The defendant
7 has a right to appear by an attorney as in all other cases. (Code
8 Crim. Proc., Art. 45.020(a).)

9 Source Law

10 Art. 45.020. APPEARANCE BY COUNSEL. (a) The
11 defendant has a right to appear by counsel as in all
12 other cases.

13 Revisor's Note

14 Article 45.020(a), Code of Criminal Procedure,
15 refers to "counsel." For consistency in terminology,
16 the revised law substitutes "attorney" for "counsel"
17 because the terms are synonymous and "attorney" is
18 more commonly used in the Code of Criminal Procedure.

19 Revised Law

20 Art. 45A.161. ORDER OF ARGUMENT. The attorney representing
21 the state may open and conclude the argument in the case. (Code
22 Crim. Proc., Art. 45.020(b).)

23 Source Law

24 (b) State's counsel may open and conclude the
25 argument in the case.

26 Revisor's Note

27 Article 45.020(b), Code of Criminal Procedure,
28 refers to "[s]tate's counsel." For consistency in
29 terminology, the revised law substitutes "attorney
30 representing the state" for "state's counsel" because
31 the terms are synonymous and "attorney representing
32 the state" is more commonly used in the Code of
33 Criminal Procedure.

34 Revised Law

35 Art. 45A.162. DIRECTED VERDICT. If, on the trial of a case
36 in a justice or municipal court, the state fails to prove a prima
37 facie case of the offense alleged in the complaint, the defendant is

1 entitled to a directed verdict of not guilty. (Code Crim. Proc.,
2 Art. 45.032.)

3 Source Law

4 Art. 45.032. DIRECTED VERDICT. If, upon the
5 trial of a case in a justice or municipal court, the
6 state fails to prove a prima facie case of the offense
7 alleged in the complaint, the defendant is entitled to
8 a directed verdict of "not guilty."

9 Revised Law

10 Art. 45A.163. JURY CHARGE. (a) The judge shall charge the
11 jury.

12 (b) The charge may be made orally or in writing, except that
13 the charge shall be made in writing if required by other law. (Code
14 Crim. Proc., Art. 45.033.)

15 Source Law

16 Art. 45.033. JURY CHARGE. The judge shall
17 charge the jury. The charge may be made orally or in
18 writing, except that the charge shall be made in
19 writing if required by law.

20 Revised Law

21 Art. 45A.164. JURY KEPT TOGETHER DURING DELIBERATION. When
22 the case is submitted to the jury, the jury shall retire in the
23 charge of an officer and be kept together until:

- 24 (1) the jury agrees to a verdict;
25 (2) the jury is discharged; or
26 (3) the court recesses. (Code Crim. Proc., Art.
27 45.034.)

28 Source Law

29 Art. 45.034. JURY KEPT TOGETHER. The jury shall
30 retire in charge of an officer when the cause is
31 submitted to them, and be kept together until they
32 agree to a verdict, are discharged, or the court
33 recesses.

34 Revised Law

35 Art. 45A.165. MISTRIAL. (a) A justice or municipal court
36 shall discharge a jury if the jury fails to agree to a verdict after
37 being kept together a reasonable period.

38 (b) If a jury is discharged under Subsection (a), the
39 justice or judge may impanel another jury as soon as practicable to

1 try the case. (Code Crim. Proc., Art. 45.035.)

2 Source Law

3 Art. 45.035. MISTRIAL. A jury shall be
4 discharged if it fails to agree to a verdict after
5 being kept together a reasonable time. If a jury is
6 discharged because it fails to agree to a verdict, the
7 justice or judge may impanel another jury as soon as
8 practicable to try such cause.

9 Revised Law

10 Art. 45A.166. VERDICT. (a) When the jury has agreed on a
11 verdict, the jury shall bring the verdict into court.

12 (b) The justice or judge shall ensure that the verdict is in
13 the proper form and impose the proper judgment and sentence on the
14 verdict. (Code Crim. Proc., Art. 45.036.)

15 Source Law

16 Art. 45.036. VERDICT. (a) When the jury has
17 agreed on a verdict, the jury shall bring the verdict
18 into court.

19 (b) The justice or judge shall see that the
20 verdict is in proper form and shall render the proper
21 judgment and sentence on the verdict.

22 Revisor's Note

23 Article 45.036, Code of Criminal Procedure,
24 provides that a justice or judge shall "see" that the
25 verdict is in proper form. The revised law substitutes
26 "ensure" for "see" because, in this context, the terms
27 are synonymous and "ensure" is more consistent with
28 modern usage.

29 SUBCHAPTER E. NEW TRIAL AND APPEAL

30 Revised Law

31 Art. 45A.201. NEW TRIAL. (a) A motion for a new trial must
32 be made not later than the fifth day after the imposition of
33 judgment and sentence.

34 (b) Subject to Subsection (e), not later than the 10th day
35 after the date that the judgment is entered, a justice or judge may
36 grant the defendant a new trial for good cause shown if the justice
37 or judge considers that justice has not been done the defendant in
38 the trial of the case.

39 (c) If a motion for a new trial is not granted before the

1 11th day after the date that the judgment is entered, the motion is
2 considered denied.

3 (d) If a new trial is granted, the justice or judge shall
4 proceed to try the case again as soon as practicable.

5 (e) A defendant may be granted not more than one new trial in
6 the same case.

7 (f) The state is not entitled to a new trial in any case.

8 (Code Crim. Proc., Arts. 45.037, 45.038, 45.039, 45.040.)

9 Source Law

10 Art. 45.037. MOTION FOR NEW TRIAL. A motion for
11 a new trial must be made within five days after the
12 rendition of judgment and sentence, and not afterward.

13 Art. 45.038. NEW TRIAL GRANTED. (a) Not later
14 than the 10th day after the date that the judgment is
15 entered, a justice or judge may, for good cause shown,
16 grant the defendant a new trial, whenever the justice
17 or judge considers that justice has not been done the
18 defendant in the trial of the case.

19 (b) If a motion for a new trial is not granted
20 before the 11th day after the date that the judgment is
21 entered, the motion shall be considered denied.

22 Art. 45.039. ONLY ONE NEW TRIAL GRANTED. Not
23 more than one new trial shall be granted the defendant
24 in the same case. When a new trial has been granted,
25 the justice or judge shall proceed, as soon as
26 practicable, to try the case again.

27 Art. 45.040. STATE NOT ENTITLED TO NEW TRIAL.
28 In no case shall the state be entitled to a new trial.

29 Revisor's Note

30 Article 45.038(a), Code of Criminal Procedure,
31 provides that a justice or judge may grant a new trial
32 under certain circumstances. For the convenience of
33 the reader, the revised law adds "[s]ubject to
34 Subsection (e)" to indicate to the reader that the
35 power to grant a new trial is subject to the
36 limitations contained in Article 45.039, Code of
37 Criminal Procedure, revised in this article as
38 Subsection (e).

39 Revised Law

40 Art. 45A.202. APPEAL. (a) An appeal from a justice or
41 municipal court, including an appeal from a final judgment in a bond
42 forfeiture proceeding, shall be heard by the county court or, if the
43 county court has no jurisdiction over the case, the proper court in

1 the county.

2 (b) A de novo trial shall be held on appeal unless the appeal
3 is:

4 (1) taken from a municipal court of record; and

5 (2) based on error reflected in the record.

6 (c) An appeal may not be dismissed because of:

7 (1) the defendant's failure to give notice of appeal in
8 open court; or

9 (2) the presence of a defect in the transcript.

10 (d) In an appeal from the judgment and sentence of a justice
11 or municipal court, if the defendant is in custody, the defendant
12 shall be committed to jail unless the defendant is released on bail.

13 (e) If the court that issued the judgment and sentence being
14 appealed is in session, the court must approve the bail. (Code Crim.
15 Proc., Arts. 45.042, 45.0425(a) (part), 45.0426(c).)

16 Source Law

17 Art. 45.042. APPEAL. (a) Appeals from a
18 justice or municipal court, including appeals from
19 final judgments in bond forfeiture proceedings, shall
20 be heard by the county court except in cases where the
21 county court has no jurisdiction, in which counties
22 such appeals shall be heard by the proper court.

23 (b) Unless the appeal is taken from a municipal
24 court of record and the appeal is based on error
25 reflected in the record, the trial shall be de novo.

26 (c) In an appeal from the judgment and sentence
27 of a justice or municipal court, if the defendant is in
28 custody, the defendant is to be committed to jail
29 unless the defendant gives bail.

30 Art. 45.0425. APPEAL BOND. (a) If the court
31 from whose judgment and sentence the appeal is taken is
32 in session, the court must approve the bail. . . .

33 [Art. 45.0426]

34 (c) An appeal may not be dismissed because the
35 defendant failed to give notice of appeal in open
36 court. An appeal by the defendant or the state may not
37 be dismissed on account of any defect in the
38 transcript.

39 Revisor's Note

40 Article 45.042(c), Code of Criminal Procedure,
41 provides that a defendant shall be committed to jail in
42 a certain type of appeal unless the defendant "gives"
43 bail. The revised law substitutes "released on" for
44 "gives" because, in this context, the terms are

1 term to term to answer in the case. (Code Crim. Proc., Arts.
2 45.0425(a) (part), (b), 45.0426(a), (b).)

3 Source Law

4 [Art. 45.0425]

5 (a) . . . The amount of an appeal bond may not
6 be less than two times the amount of the fine and costs
7 adjudged against the defendant, payable to the State
8 of Texas. The appeal bond may not in any case be for an
9 amount less than \$50. If the appeal bond otherwise
10 meets the requirements of this code, the court without
11 requiring a court appearance by the defendant shall
12 approve the appeal bond in the amount the court under
13 Article 27.14(b) notified the defendant would be
14 approved.

15 (b) An appeal bond shall recite that in the
16 cause the defendant was convicted and has appealed and
17 be conditioned that the defendant shall make the
18 defendant's personal appearance before the court to
19 which the appeal is taken instanter, if the court is in
20 session, or, if the court is not in session, at its
21 next regular term, stating the time and place of that
22 session, and there remain from day to day and term to
23 term, and answer in the cause in the court.

24 Art. 45.0426. FILING BOND PERFECTS APPEAL. (a)
25 When the appeal bond has been filed with the justice or
26 judge who tried the case not later than the 10th day
27 after the date the judgment was entered, the appeal in
28 such case shall be held to be perfected.

29 (b) If an appeal bond is not timely filed, the
30 appellate court does not have jurisdiction over the
31 case and shall remand the case to the justice or
32 municipal court for execution of the sentence.

33 Revisor's Note

34 Article 45.0425(b), Code of Criminal Procedure,
35 provides that an appeal bond shall be conditioned on
36 the defendant making a personal appearance before the
37 court to which the appeal is taken "instanter," if that
38 court is in session. The revised law substitutes
39 "immediately" for "instanter" because, in this
40 context, the terms are synonymous and "immediately" is
41 more consistent with modern usage.

42 Revised Law

43 Art. 45A.204. EFFECT OF APPEAL. All further proceedings in
44 the case in the justice or municipal court must cease when a
45 defendant files the appeal bond required by law with the justice or
46 municipal court. (Code Crim. Proc., Art. 45.043.)

47 Source Law

48 Art. 45.043. EFFECT OF APPEAL. When a defendant

1 files the appeal bond required by law with the justice
2 or municipal court, all further proceedings in the
3 case in the justice or municipal court shall cease.

4 SUBCHAPTER F. JUDGMENT, FINES, AND COSTS

5 Revised Law

6 Art. 45A.251. JUDGMENT. (a) The judgment and sentence for
7 a conviction in a criminal action before a justice or judge is that
8 the defendant pay the amount of the fine and costs to the state.

9 (b) Subject to Articles 45A.253(a) and (b) and Article
10 45A.257, the justice or judge may direct the defendant:

11 (1) to pay:

12 (A) the entire fine and costs when the sentence
13 is pronounced;

14 (B) the entire fine and costs at a later date; or

15 (C) a specified portion of the fine and costs at
16 designated intervals;

17 (2) if applicable, to make restitution to a victim of
18 the offense; and

19 (3) to satisfy any other sanction authorized by law.

20 (c) Restitution made under Subsection (b)(2) may not exceed
21 \$5,000 for an offense under Section 32.41, Penal Code.

22 (d) The justice or judge shall credit the defendant for time
23 served in jail as provided by Article 42.03. The credit under this
24 subsection shall be applied to the amount of the fine and costs at
25 the rate provided by Article 45A.262.

26 (e) In addition to credit under Subsection (d), in imposing
27 a fine and costs in a case involving a misdemeanor punishable by
28 fine only, the justice or judge shall credit the defendant for any
29 period the defendant was confined in jail or prison while serving a
30 sentence for another offense if that confinement occurred after the
31 commission of the misdemeanor. The credit under this subsection
32 shall be applied to the amount of the fine and costs at the rate of
33 not less than \$150 for each day of confinement.

34 (f) All judgments, sentences, and final orders of the
35 justice or judge shall be imposed in open court. (Code Crim. Proc.,

1 Arts. 45.041(a), (b), (b-1), (c), (c-1), (d).)

2 Source Law

3 Art. 45.041. JUDGMENT. (a) The judgment and
4 sentence, in case of conviction in a criminal action
5 before a justice of the peace or municipal court judge,
6 shall be that the defendant pay the amount of the fine
7 and costs to the state.

8 (b) Subject to Subsections (b-2) and (b-3) and
9 Article 45.0491, the justice or judge may direct the
10 defendant:

- 11 (1) to pay:
12 (A) the entire fine and costs when
13 sentence is pronounced;
14 (B) the entire fine and costs at some
15 later date; or
16 (C) a specified portion of the fine
17 and costs at designated intervals;
18 (2) if applicable, to make restitution to
19 any victim of the offense; and
20 (3) to satisfy any other sanction
21 authorized by law.

22 (b-1) Restitution made under Subsection (b)(2)
23 may not exceed \$5,000 for an offense under Section
24 32.41, Penal Code.

25 (c) The justice or judge shall credit the
26 defendant for time served in jail as provided by
27 Article 42.03. The credit under this subsection shall
28 be applied to the amount of the fine and costs at the
29 rate provided by Article 45.048.

30 (c-1) In addition to credit under Subsection
31 (c), in imposing a fine and costs in a case involving a
32 misdemeanor punishable by a fine only, the justice or
33 judge shall credit the defendant for any time the
34 defendant was confined in jail or prison while serving
35 a sentence for another offense if that confinement
36 occurred after the commission of the misdemeanor. The
37 credit under this subsection shall be applied to the
38 amount of the fine and costs at the rate of not less
39 than \$150 for each day of confinement.

40 (d) All judgments, sentences, and final orders
41 of the justice or judge shall be rendered in open
42 court.

43 Revised Law

44 Art. 45A.252. SUFFICIENCY OF RESOURCES TO PAY FINES OR
45 COSTS. (a) Notwithstanding any other provision of this article,
46 Article 45A.251, or Article 45A.253, during or immediately after
47 imposing a sentence in a case in which the defendant entered a plea
48 in open court as provided by Article 27.14(a) or 27.16(a), the
49 justice or judge shall inquire whether the defendant has sufficient
50 resources or income to immediately pay all or part of the fine and
51 costs.

52 (b) If the justice or judge determines that the defendant

1 does not have sufficient resources or income to immediately pay all
2 or part of the fine and costs, the justice or judge shall determine
3 whether the fine and costs should be:

4 (1) subject to Article 45A.253(a), required to be paid
5 at a later date or in a specified portion at designated intervals;

6 (2) discharged by performing community service under,
7 as applicable, Article 45A.254, 45A.459, or 45A.460;

8 (3) waived in full or in part under Article 45A.257; or

9 (4) satisfied through any combination of methods under
10 Subdivision (1), (2), or (3). (Code Crim. Proc., Art. 45.041(a-1).)

11 Source Law

12 (a-1) Notwithstanding any other provision of
13 this article, during or immediately after imposing a
14 sentence in a case in which the defendant entered a
15 plea in open court as provided by Article 27.14(a) or
16 27.16(a), the justice or judge shall inquire whether
17 the defendant has sufficient resources or income to
18 immediately pay all or part of the fine and costs. If
19 the justice or judge determines that the defendant
20 does not have sufficient resources or income to
21 immediately pay all or part of the fine and costs, the
22 justice or judge shall determine whether the fine and
23 costs should be:

24 (1) subject to Subsection (b-2), required
25 to be paid at some later date or in a specified portion
26 at designated intervals;

27 (2) discharged by performing community
28 service under, as applicable, Article 45.049, Article
29 45.0492, as added by Chapter 227 (H.B. 350), Acts of
30 the 82nd Legislature, Regular Session, 2011, or
31 Article 45.0492, as added by Chapter 777 (H.B. 1964),
32 Acts of the 82nd Legislature, Regular Session, 2011;

33 (3) waived in full or in part under Article
34 45.0491; or

35 (4) satisfied through any combination of
36 methods under Subdivisions (1)-(3).

37 Revisor's Note

38 Article 45.041(a-1), Code of Criminal Procedure,
39 requires a justice or judge to determine whether a
40 defendant's fine and costs should be discharged by
41 performing community service "under Article 45.049."
42 The relevant portion of Article 45.049 is revised as
43 Article 45A.254, and the revised law is drafted
44 accordingly.

45 Revised Law

46 Art. 45A.253. DISCHARGING FINES OR COSTS. (a) In imposing

1 a fine and costs, the justice or judge shall allow the defendant to
2 pay the fine and costs in specified portions at designated
3 intervals if the justice or judge determines that the defendant is
4 unable to immediately pay the fine and costs.

5 (b) A judge may allow a defendant who is a child, as defined
6 by Article 45A.453(a), to elect at the time of conviction, as
7 defined by Section 133.101, Local Government Code, to discharge the
8 fine and costs by:

9 (1) performing community service or receiving
10 tutoring under Article 45A.460, regardless of whether the
11 applicable offense occurred at a location specified by Subsection
12 (a) of that article; or

13 (2) paying the fine and costs in a manner described by
14 Article 45A.251(b).

15 (c) The defendant must make the election under Subsection
16 (b) in writing. The defendant and, if present, the defendant's
17 parent, guardian, or managing conservator must sign the election.
18 The court shall maintain the written election as a record of the
19 court and provide a copy to the defendant.

20 (d) Notwithstanding Article 45A.252 or any other provision
21 of this chapter, in imposing a fine and costs, the justice or judge
22 may not require a defendant who is under the conservatorship of the
23 Department of Family and Protective Services or in extended foster
24 care as provided by Subchapter G, Chapter 263, Family Code, to pay
25 any amount of the fine and costs. In lieu of the payment of fine and
26 costs, the justice or judge may require the defendant to perform
27 community service as provided by Article 45A.254, 45A.459, or
28 45A.460, as appropriate. (Code Crim. Proc., Arts. 45.041(b-2),
29 (b-3), (b-4), (b-5), (b-6).)

30 Source Law

31 (b-2) When imposing a fine and costs, if the
32 justice or judge determines that the defendant is
33 unable to immediately pay the fine and costs, the
34 justice or judge shall allow the defendant to pay the
35 fine and costs in specified portions at designated
36 intervals.

37 (b-3) A judge may allow a defendant who is a

1 child, as defined by Article 45.058(h), to elect at the
2 time of conviction, as defined by Section 133.101,
3 Local Government Code, to discharge the fine and costs
4 by:

5 (1) performing community service or
6 receiving tutoring under Article 45.0492, as added by
7 Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
8 Regular Session, 2011; or

9 (2) paying the fine and costs in a manner
10 described by Subsection (b).

11 (b-4) The election under Subsection (b-3) must
12 be made in writing, signed by the defendant, and, if
13 present, signed by the defendant's parent, guardian,
14 or managing conservator. The court shall maintain the
15 written election as a record of the court and provide a
16 copy to the defendant.

17 (b-5) The requirement under Article 45.0492(a),
18 as added by Chapter 227 (H.B. 350), Acts of the 82nd
19 Legislature, Regular Session, 2011, that an offense
20 occur in a building or on the grounds of the primary or
21 secondary school at which the defendant was enrolled
22 at the time of the offense does not apply to the
23 performance of community service or the receipt of
24 tutoring to discharge a fine or costs under Subsection
25 (b-3)(1).

26 (b-6) Notwithstanding Subsection (a-1) or any
27 other provision of this chapter, when imposing a fine
28 and costs, the justice or judge may not require a
29 defendant who is under the conservatorship of the
30 Department of Family and Protective Services or in
31 extended foster care as provided by Subchapter G,
32 Chapter 263, Family Code, to pay any amount of the fine
33 and costs. In lieu of the payment of fine and costs,
34 the justice or judge may require the defendant to
35 perform community service as provided by Article
36 45.049, 45.0492, as added by Chapter 227 (H.B. 350),
37 Acts of the 82nd Legislature, Regular Session, 2011,
38 or 45.0492, as added by Chapter 777 (H.B. 1964), Acts
39 of the 82nd Legislature, Regular Session, 2011, as
40 appropriate.

41 Revisor's Note

42 Article 45.041(b-6), Code of Criminal Procedure,
43 allows a justice or judge to require a defendant to
44 perform community service in lieu of the payment of
45 fine and costs "as provided by Article 45.049." The
46 relevant portion of Article 45.049 is revised as
47 Article 45A.254, and the revised law is drafted
48 accordingly.

49 Revised Law

50 Art. 45A.254. COMMUNITY SERVICE TO SATISFY FINES OR COSTS.

51 (a) A justice or judge may require a defendant who fails to pay a
52 previously assessed fine or cost, or who is determined by the court
53 to have insufficient resources or income to pay a fine or cost, to
54 discharge all or part of the fine or cost by performing community

1 service.

2 (b) An order requiring a defendant to perform community
3 service under this article must specify:

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

6 (2) the date by which the defendant must submit to the
7 court documentation verifying that the defendant completed the
8 community service.

9 (c) The justice or judge may order the defendant to perform
10 community service under this article:

11 (1) by attending:

12 (A) a work and job skills training program;

13 (B) a preparatory class for the high school
14 equivalency examination administered under Section 7.111,
15 Education Code;

16 (C) an alcohol or drug abuse program;

17 (D) a rehabilitation program;

18 (E) a counseling program, including a
19 self-improvement program;

20 (F) a mentoring program; or

21 (G) any similar activity; or

22 (2) for:

23 (A) a governmental entity;

24 (B) a nonprofit organization or another
25 organization that provides to the general public services that
26 enhance social welfare and the general well-being of the community,
27 as determined by the justice or judge; or

28 (C) an educational institution.

29 (d) A justice or judge may not order a defendant to perform
30 more than 16 hours each week of community service under this article
31 unless the justice or judge determines that requiring the defendant
32 to perform additional hours does not impose an undue hardship on the
33 defendant or the defendant's dependents.

34 (e) A defendant is considered to have discharged not less

1 than \$100 of fines or costs for each eight hours of community
2 service performed under this article.

3 (f) A defendant may discharge an obligation to perform
4 community service under this article by paying at any time the fine
5 and costs assessed.

6 (g) A community supervision and corrections department or a
7 court-related services office may provide the administrative and
8 other services necessary to supervise a defendant required to
9 perform community service under this article.

10 (h) An entity that accepts a defendant to perform community
11 service under this article must agree to:

12 (1) supervise, either on-site or remotely, the
13 defendant in the performance of the defendant's community service;
14 and

15 (2) report on the defendant's community service to the
16 justice or judge who ordered the service.

17 (i) A sheriff, employee of a sheriff's department, county
18 commissioner, county employee, county judge, justice of the peace,
19 municipal court judge, or officer or employee of a political
20 subdivision other than a county or an entity that accepts a
21 defendant to perform community service under this article is not
22 liable for damages arising from an act or failure to act in
23 connection with the community service if the act or failure to act:

24 (1) was performed pursuant to court order; and

25 (2) was not intentional, wilfully or wantonly
26 negligent, or performed with conscious indifference or reckless
27 disregard for the safety of others. (Code Crim. Proc., Arts.
28 45.049(a), (b), (c), (c-1), (d), (e), (f), (i).)

29 Source Law

30 Art. 45.049. COMMUNITY SERVICE IN SATISFACTION
31 OF FINE OR COSTS. (a) A justice or judge may require a
32 defendant who fails to pay a previously assessed fine
33 or costs, or who is determined by the court to have
34 insufficient resources or income to pay a fine or
35 costs, to discharge all or part of the fine or costs by
36 performing community service. A defendant may
37 discharge an obligation to perform community service
38 under this article by paying at any time the fine and

1 costs assessed.

2 (b) In the justice's or judge's order requiring
3 a defendant to perform community service under this
4 article, the justice or judge must specify:

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

7 (2) the date by which the defendant must
8 submit to the court documentation verifying the
9 defendant's completion of the community service.

10 (c) The justice or judge may order the defendant
11 to perform community service under this article:

12 (1) by attending:

13 (A) a work and job skills training
14 program;

15 (B) a preparatory class for the high
16 school equivalency examination administered under
17 Section 7.111, Education Code;

18 (C) an alcohol or drug abuse program;

19 (D) a rehabilitation program;

20 (E) a counseling program, including a
21 self-improvement program;

22 (F) a mentoring program; or

23 (G) any similar activity; or

24 (2) for:

25 (A) a governmental entity;

26 (B) a nonprofit organization or
27 another organization that provides services to the
28 general public that enhance social welfare and the
29 general well-being of the community, as determined by
30 the justice or judge; or

31 (C) an educational institution.

32 (c-1) An entity that accepts a defendant under
33 this article to perform community service must agree
34 to supervise, either on-site or remotely, the
35 defendant in the performance of the defendant's
36 community service and report on the defendant's
37 community service to the justice or judge who ordered
38 the service.

39 (d) A justice or judge may not order a defendant
40 to perform more than 16 hours per week of community
41 service under this article unless the justice or judge
42 determines that requiring the defendant to perform
43 additional hours does not impose an undue hardship on
44 the defendant or the defendant's dependents.

45 (e) A defendant is considered to have discharged
46 not less than \$100 of fines or costs for each eight
47 hours of community service performed under this
48 article.

49 (f) A sheriff, employee of a sheriff's
50 department, county commissioner, county employee,
51 county judge, justice of the peace, municipal court
52 judge, or officer or employee of a political
53 subdivision other than a county or an entity that
54 accepts a defendant under this article to perform
55 community service is not liable for damages arising
56 from an act or failure to act in connection with
57 community service performed by a defendant under this
58 article if the act or failure to act:

59 (1) was performed pursuant to court order;
60 and

61 (2) was not intentional, wilfully or
62 wantonly negligent, or performed with conscious
63 indifference or reckless disregard for the safety of
64 others.

65 (i) A community supervision and corrections
66 department or a court-related services office may
67 provide the administrative and other services

1 necessary for supervision of a defendant required to
2 perform community service under this article.

3 Revisor's Note

4 Articles 45.049(a), (b), (c), (c-1), (d), (e),
5 (f), and (i), Code of Criminal Procedure, allow a
6 justice or judge to require a defendant to discharge
7 fines or costs by performing community service "under
8 this article." The relevant portion of Article 45.049
9 is revised only in this article, and the revised law is
10 drafted accordingly.

11 Revised Law

12 Art. 45A.255. COMMUNITY SERVICE IN CERTAIN CASES INVOLVING
13 DEFERRED DISPOSITION. (a) This article applies only to a defendant
14 who is a resident of this state and who is charged with:

15 (1) a traffic offense; or

16 (2) an offense under Section 106.05, Alcoholic
17 Beverage Code.

18 (b) If under Article 45A.303(b)(10) the judge requires a
19 defendant described by Subsection (a) to perform community service
20 as a condition of the deferral, the defendant is entitled to elect
21 whether to perform the required service in the county in which:

22 (1) the court is located; or

23 (2) the defendant resides, but only if the applicable
24 entity agrees to:

25 (A) supervise, either on-site or remotely, the
26 defendant in the performance of the defendant's community service;
27 and

28 (B) report to the court on the defendant's
29 community service.

30 (c) If a defendant described by Subsection (a)(2) elects to
31 perform the required community service in the county in which the
32 defendant resides under Subsection (b)(2), the community service
33 must comply with Sections 106.071(d) and (e), Alcoholic Beverage
34 Code, except that if the educational programs or services described
35 by Section 106.071(e) are not available in the county of the

1 defendant's residence, the court may order community service that
2 the court considers appropriate for rehabilitative purposes. (Code
3 Crim. Proc., Arts. 45.049(g), (h).)

4 Source Law

5 (g) This subsection applies only to a defendant
6 who is charged with a traffic offense or an offense
7 under Section 106.05, Alcoholic Beverage Code, and is
8 a resident of this state. If under Article
9 45.051(b)(10), Code of Criminal Procedure, the judge
10 requires the defendant to perform community service as
11 a condition of the deferral, the defendant is entitled
12 to elect whether to perform the required service in:

13 (1) the county in which the court is
14 located; or

15 (2) the county in which the defendant
16 resides, but only if the applicable entity agrees to:

17 (A) supervise, either on-site or
18 remotely, the defendant in the performance of the
19 defendant's community service; and

20 (B) report to the court on the
21 defendant's community service.

22 (h) This subsection applies only to a defendant
23 charged with an offense under Section 106.05,
24 Alcoholic Beverage Code, who, under Subsection (g),
25 elects to perform the required community service in
26 the county in which the defendant resides. The
27 community service must comply with Sections 106.071(d)
28 and (e), Alcoholic Beverage Code, except that if the
29 educational programs or services described by Section
30 106.071(e) are not available in the county of the
31 defendant's residence, the court may order community
32 service that it considers appropriate for
33 rehabilitative purposes.

34 Revised Law

35 Art. 45A.256. FORFEITURE OF CASH BOND TO SATISFY FINES AND
36 COSTS; MOTION FOR NEW TRIAL. (a) A justice or judge may enter a
37 judgment of conviction and forfeit a cash bond posted by the
38 defendant to satisfy the defendant's fine and costs if the
39 defendant:

40 (1) has entered a written and signed plea of nolo
41 contendere and a waiver of jury trial; and

42 (2) fails to appear according to the conditions of the
43 defendant's release.

44 (b) A justice or judge who enters a judgment of conviction
45 and forfeiture of bond under Subsection (a) shall immediately
46 notify the defendant in writing, by regular mail addressed to the
47 defendant at the defendant's last known address, that:

48 (1) a judgment of conviction and forfeiture of bond

1 was entered against the defendant on a specified date and the
2 forfeiture satisfies the defendant's fine and costs in the case;
3 and

4 (2) the defendant has a right to a new trial in the
5 case if the defendant applies for the new trial not later than the
6 10th day after the date of judgment and forfeiture.

7 (c) Notwithstanding Article 45A.201, the defendant may file
8 a motion for a new trial within the period provided by Subsection
9 (b), and the court shall grant the motion if the motion is made
10 within that period. On the new trial, the court shall permit the
11 defendant to withdraw the previously entered plea of nolo
12 contendere and waiver of jury trial. (Code Crim. Proc., Art.
13 45.044.)

14 Source Law

15 Art. 45.044. FORFEITURE OF CASHBOND IN
16 SATISFACTION OF FINE. (a) A justice or judge may
17 enter a judgment of conviction and forfeit a cash bond
18 posted by the defendant in satisfaction of the
19 defendant's fine and cost if the defendant:

20 (1) has entered a written and signed plea
21 of nolo contendere and a waiver of jury trial; and

22 (2) fails to appear according to the terms
23 of the defendant's release.

24 (b) A justice or judge who enters a judgment of
25 conviction and forfeiture under Subsection (a) of this
26 article shall immediately notify the defendant in
27 writing, by regular mail addressed to the defendant at
28 the defendant's last known address, that:

29 (1) a judgment of conviction and
30 forfeiture of bond was entered against the defendant
31 on a date certain and the forfeiture satisfies the
32 defendant's fine and costs in the case; and

33 (2) the defendant has a right to a new
34 trial in the case if the defendant applies for the new
35 trial not later than the 10th day after the date of
36 judgment and forfeiture.

37 (c) Notwithstanding Article 45.037 of this
38 code, the defendant may file a motion for a new trial
39 within the period provided by Subsection (b) of this
40 article, and the court shall grant the motion if the
41 motion is made within that period. On the new trial,
42 the court shall permit the defendant to withdraw the
43 previously entered plea of nolo contendere and waiver
44 of jury trial.

45 Revisor's Note

46 (1) Article 45.044(a)(2), Code of Criminal
47 Procedure, refers to the "terms" of a defendant's
48 release. The revised law substitutes "conditions" for

1 "terms" because, in this context, the terms are
2 synonymous and "conditions" is more commonly used.

3 (2) Article 45.044(b)(1), Code of Criminal
4 Procedure, refers to a judgment of conviction and
5 forfeiture of bond entered on a "date certain." The
6 revised law substitutes "specified date" for "date
7 certain" for the reason stated in Revisor's Note (2) to
8 Article 45A.158.

9 Revised Law

10 Art. 45A.257. WAIVER OF PAYMENT OF FINES AND COSTS. (a) A
11 municipal court, regardless of whether the court is a court of
12 record, or a justice court may waive payment of all or part of a fine
13 imposed on a defendant if the court determines that:

14 (1) the defendant:

15 (A) is indigent or does not have sufficient
16 resources or income to pay all or part of the fine; or

17 (B) was, at the time the offense was committed, a
18 child as defined by Article 45A.453(a); and

19 (2) discharging the fine under Article 45A.254 or as
20 otherwise authorized by this chapter would impose an undue hardship
21 on the defendant.

22 (b) A municipal court, regardless of whether the court is a
23 court of record, or a justice court may waive payment of all or part
24 of the costs imposed on a defendant if the court determines that the
25 defendant:

26 (1) is indigent or does not have sufficient resources
27 or income to pay all or part of the costs; or

28 (2) was, at the time the offense was committed, a child
29 as defined by Article 45A.453(a).

30 (c) A defendant is presumed to be indigent or to not have
31 sufficient resources or income to pay all or part of the fines or
32 costs for purposes of Subsection (a) or (b) if the defendant:

33 (1) is in the conservatorship of the Department of
34 Family and Protective Services, or was in the conservatorship of

1 that department at the time of the offense; or

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

5 (d) A determination of undue hardship made under Subsection
6 (a)(2) is in the court's discretion. In making that determination,
7 the court may consider, as applicable, the defendant's:

8 (1) significant physical or mental impairment or
9 disability;

10 (2) pregnancy and childbirth;

11 (3) substantial family commitments or
12 responsibilities, including child or dependent care;

13 (4) work responsibilities and hours;

14 (5) transportation limitations;

15 (6) homelessness or housing insecurity; and

16 (7) any other factor the court determines relevant.

17 (Code Crim. Proc., Art. 45.0491.)

18 Source Law

19 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND
20 COSTS FOR CERTAIN DEFENDANTS AND FOR CHILDREN.

21 (a) A municipal court, regardless of whether the
22 court is a court of record, or a justice court may
23 waive payment of all or part of a fine imposed on a
24 defendant if the court determines that:

25 (1) the defendant is indigent or does not
26 have sufficient resources or income to pay all or part
27 of the fine or was, at the time the offense was
28 committed, a child as defined by Article 45.058(h);
29 and

30 (2) discharging the fine under Article
31 45.049 or as otherwise authorized by this chapter
32 would impose an undue hardship on the defendant.

33 (b) A defendant is presumed to be indigent or to
34 not have sufficient resources or income to pay all or
35 part of the fine or costs for purposes of Subsection
36 (a) or (d) if the defendant:

37 (1) is in the conservatorship of the
38 Department of Family and Protective Services, or was
39 in the conservatorship of that department at the time
40 of the offense; or

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

45 (c) A determination of undue hardship made under
46 Subsection (a)(2) is in the court's discretion. In
47 making that determination, the court may consider, as
48 applicable, the defendant's:

49 (1) significant physical or mental

1 impairment or disability;
2 (2) pregnancy and childbirth;
3 (3) substantial family commitments or
4 responsibilities, including child or dependent care;
5 (4) work responsibilities and hours;
6 (5) transportation limitations;
7 (6) homelessness or housing insecurity;
8 and
9 (7) any other factors the court determines
10 relevant.

11 (d) A municipal court, regardless of whether the
12 court is a court of record, or a justice court may
13 waive payment of all or part of the costs imposed on a
14 defendant if the court determines that the defendant:

15 (1) is indigent or does not have
16 sufficient resources or income to pay all or part of
17 the costs; or

18 (2) was, at the time the offense was
19 committed, a child as defined by Article 45.058(h).

20 Revisor's Note

21 Article 45.0491(a), Code of Criminal Procedure,
22 allows a municipal or justice court to waive payment of
23 a fine if discharging the fine "under Article 45.049"
24 would impose an undue hardship on the defendant. The
25 relevant portion of Article 45.049 is revised as
26 Article 45A.254, and the revised law is drafted
27 accordingly.

28 Revised Law

29 Art. 45A.258. RECONSIDERATION OF SATISFACTION OF FINES OR
30 COSTS. (a) If the defendant notifies the justice or judge that the
31 defendant has difficulty paying the fine and costs in compliance
32 with the judgment, the justice or judge shall hold a hearing to
33 determine whether the judgment imposes an undue hardship on the
34 defendant.

35 (b) For purposes of Subsection (a), a defendant may notify
36 the justice or judge by:

37 (1) voluntarily appearing and informing the justice or
38 judge or the clerk of the court in the manner established by the
39 justice or judge for that purpose;

40 (2) filing a motion with the justice or judge;

41 (3) mailing a letter to the justice or judge; or

42 (4) any other method established by the justice or
43 judge for that purpose.

1 (c) If the justice or judge determines at a hearing under
2 Subsection (a) that the judgment imposes an undue hardship on the
3 defendant, the justice or judge shall consider whether to allow the
4 defendant to satisfy the fine and costs through one or more methods
5 listed under Article 45A.252.

6 (d) The justice or judge may decline to hold a hearing under
7 Subsection (a) if the justice or judge:

8 (1) previously held a hearing under that subsection
9 with respect to the case and is able to determine without holding a
10 hearing that the judgment does not impose an undue hardship on the
11 defendant; or

12 (2) is able to determine without holding a hearing
13 that:

14 (A) the judgment imposes an undue hardship on the
15 defendant; and

16 (B) the fine and costs should be satisfied
17 through one or more methods listed under Article 45A.252.

18 (e) The justice or judge retains jurisdiction for the
19 purpose of making a determination under this article. (Code Crim.
20 Proc., Art. 45.0445.)

21 Source Law

22 Art. 45.0445. RECONSIDERATION OF SATISFACTION
23 OF FINE OR COSTS. (a) If the defendant notifies the
24 justice or judge that the defendant has difficulty
25 paying the fine and costs in compliance with the
26 judgment, the justice or judge shall hold a hearing to
27 determine whether the judgment imposes an undue
28 hardship on the defendant.

29 (b) For purposes of Subsection (a), a defendant
30 may notify the justice or judge by:

31 (1) voluntarily appearing and informing
32 the justice or judge or the clerk of the court in the
33 manner established by the justice or judge for that
34 purpose;

35 (2) filing a motion with the justice or
36 judge;

37 (3) mailing a letter to the justice or
38 judge; or

39 (4) any other method established by the
40 justice or judge for that purpose.

41 (c) If the justice or judge determines at the
42 hearing under Subsection (a) that the judgment imposes
43 an undue hardship on the defendant, the justice or
44 judge shall consider whether to allow the defendant to
45 satisfy the fine and costs through one or more methods
46 listed under Article 45.041(a-1).

1 (d) The justice or judge may decline to hold a
2 hearing under Subsection (a) if the justice or judge:

3 (1) previously held a hearing under that
4 subsection with respect to the case and is able to
5 determine without holding a hearing that the judgment
6 does not impose an undue hardship on the defendant; or

7 (2) is able to determine without holding a
8 hearing that:

9 (A) the judgment imposes an undue
10 hardship on the defendant; and

11 (B) the fine and costs should be
12 satisfied through one or more methods listed under
13 Article 45.041(a-1).

14 (e) The justice or judge retains jurisdiction
15 for the purpose of making a determination under this
16 article.

17 Revised Law

18 Art. 45A.259. CAPIAS PRO FINE. (a) If the defendant is not
19 in custody when the judgment is imposed or if the defendant fails to
20 satisfy the judgment according to the terms of the judgment, the
21 court may order a capias pro fine, as defined by Article 43.015,
22 issued for the defendant's arrest.

23 (b) The capias pro fine ordered under Subsection (a) must:

24 (1) state the amount of the judgment and sentence; and

25 (2) command the appropriate peace officer to:

26 (A) bring the defendant before the court
27 immediately; or

28 (B) place the defendant in jail until the first
29 business day following the date of the defendant's arrest if the
30 defendant cannot be brought before the court immediately.

31 (c) If the court that issued the capias pro fine is
32 unavailable, the arresting officer may, in lieu of placing the
33 defendant in jail, take the defendant to:

34 (1) a justice court or county criminal law magistrate
35 court with jurisdiction over Class C misdemeanors that is located
36 in the same county, if the court that issued the capias pro fine was
37 a justice court; or

38 (2) a municipal court that is located in the same
39 municipality, if the court that issued the capias pro fine was a
40 municipal court.

41 (d) The court may not issue a capias pro fine for the
42 defendant's failure to satisfy the judgment according to the terms

1 of the judgment unless the court holds a hearing to determine
2 whether the judgment imposes an undue hardship on the defendant and
3 the defendant fails to:

4 (1) appear at the hearing; or

5 (2) comply with an order issued under Subsection (f)
6 as a result of the hearing.

7 (e) If the justice or judge determines at the hearing under
8 Subsection (d) that the judgment imposes an undue hardship on the
9 defendant, the justice or judge shall determine whether the fine
10 and costs should be satisfied through one or more methods listed
11 under Article 45A.252. The justice or judge retains jurisdiction
12 for the purpose of making a determination under this subsection.

13 (f) If the justice or judge determines at the hearing under
14 Subsection (d) that the judgment does not impose an undue hardship
15 on the defendant, the justice or judge shall order the defendant to
16 comply with the judgment not later than the 30th day after the date
17 that determination is made.

18 (g) The court shall recall a *capias pro fine* if, before the
19 *capias pro fine* is executed, the defendant:

20 (1) provides notice to the justice or judge under
21 Article 45A.258 and a hearing is set under that article; or

22 (2) voluntarily appears and makes a good faith effort
23 to resolve the *capias pro fine*.

24 (h) A *capias pro fine* may not be issued for a person
25 convicted for an offense committed before the person's 17th
26 birthday unless:

27 (1) the person is 17 years of age or older;

28 (2) the court finds that the issuance of the *capias pro*
29 *fine* is justified after considering:

30 (A) the sophistication and maturity of the
31 person;

32 (B) the criminal record and history of the
33 person; and

34 (C) the reasonable likelihood of bringing about

1 the discharge of the judgment through the use of procedures and
2 services currently available to the court; and

3 (3) the court has proceeded under Article 45A.461 to
4 compel the person to discharge the judgment.

5 (i) This article does not limit the authority of a court to
6 order a child taken into custody under Article 45A.453 or 45A.455.
7 (Code Crim. Proc., Arts. 45.045(a), (a-1) as added Acts 84th Leg.,
8 R.S., Ch. 1171, (a-2), (a-3), (a-4), (a-5), (b), (c).)

9 Source Law

10 Art. 45.045. CAPIAS PRO FINE. (a) If the
11 defendant is not in custody when the judgment is
12 rendered or if the defendant fails to satisfy the
13 judgment according to its terms, the court may order a
14 capias pro fine, as defined by Article 43.015, issued
15 for the defendant's arrest. The capias pro fine shall
16 state the amount of the judgment and sentence, and
17 command the appropriate peace officer to bring the
18 defendant before the court immediately or place the
19 defendant in jail until the business day following the
20 date of the defendant's arrest if the defendant cannot
21 be brought before the court immediately.

22 (a-1) [as added Acts 84th Leg., R.S., Ch. 1171]
23 If the court that issued the capias pro fine is
24 unavailable, the arresting officer may, in lieu of
25 placing the defendant in jail, take the defendant to:

26 (1) a justice of the peace court or county
27 criminal law magistrate court with jurisdiction over
28 Class C misdemeanors that is located in the same
29 county, if the court that issued the capias pro fine
30 was a justice of the peace court; or

31 (2) a municipal court that is located in
32 the same municipality, if the court that issued the
33 capias pro fine was a municipal court.

34 (a-2) The court may not issue a capias pro fine
35 for the defendant's failure to satisfy the judgment
36 according to its terms unless the court holds a hearing
37 to determine whether the judgment imposes an undue
38 hardship on the defendant and the defendant fails to:

39 (1) appear at the hearing; or

40 (2) comply with an order issued under
41 Subsection (a-4) as a result of the hearing.

42 (a-3) If the justice or judge determines at the
43 hearing under Subsection (a-2) that the judgment
44 imposes an undue hardship on the defendant, the
45 justice or judge shall determine whether the fine and
46 costs should be satisfied through one or more methods
47 listed under Article 45.041(a-1). The justice or
48 judge retains jurisdiction for the purpose of making a
49 determination under this subsection.

50 (a-4) If the justice or judge determines at the
51 hearing under Subsection (a-2) that the judgment does
52 not impose an undue hardship on the defendant, the
53 justice or judge shall order the defendant to comply
54 with the judgment not later than the 30th day after the
55 date the determination is made.

56 (a-5) The court shall recall a capias pro fine
57 if, before the capias pro fine is executed, the
58 defendant:

1 (1) provides notice to the justice or
2 judge under Article 45.0445 and a hearing is set under
3 that article; or

4 (2) voluntarily appears and makes a good
5 faith effort to resolve the capias pro fine.

6 (b) A capias pro fine may not be issued for an
7 individual convicted for an offense committed before
8 the individual's 17th birthday unless:

9 (1) the individual is 17 years of age or
10 older;

11 (2) the court finds that the issuance of
12 the capias pro fine is justified after considering:

13 (A) the sophistication and maturity
14 of the individual;

15 (B) the criminal record and history
16 of the individual; and

17 (C) the reasonable likelihood of
18 bringing about the discharge of the judgment through
19 the use of procedures and services currently available
20 to the court; and

21 (3) the court has proceeded under Article
22 45.050 to compel the individual to discharge the
23 judgment.

24 (c) This article does not limit the authority of
25 a court to order a child taken into custody under
26 Article 45.058 or 45.059.

27 Revisor's Note

28 (1) Article 45.045(a-1), Code of Criminal
29 Procedure, as added by Chapter 1182 (S.B. 1139), Acts
30 of the 84th Legislature, Regular Session, 2015, and
31 Article 45.045(a-1), Code of Criminal Procedure, as
32 added by Chapter 1171 (S.B. 873), Acts of the 84th
33 Legislature, Regular Session, 2015, state that if the
34 court issuing a capias pro fine is unavailable, an
35 arresting officer may take the defendant to certain
36 locations in lieu of placing the defendant in jail.
37 The revised law omits Article 45.045(a-1) as added by
38 Chapter 1182 because it duplicates in substance
39 Article 45.045(a-1), as added by Chapter 1171, revised
40 as Article 45A.259(c) of this chapter. The omitted law
41 reads:

42 (a-1) [as added Acts 84th Leg., R.S.,
43 Ch. 1182] If the court that issued the
44 capias pro fine is unavailable, the
45 arresting officer may take the defendant to
46 one of the following locations in lieu of
47 placing the defendant in jail:

48 (1) if the court that issued the
49 capias pro fine was a justice of the peace,
50 to a justice of the peace or county criminal
51 law magistrate court with jurisdiction over
52 Class C misdemeanors that is located within

1 the same county; or
2 (2) if the court that issued the
3 capias pro fine was a municipal court, to a
4 municipal court judge that is located
5 within the same city.

6 (2) Article 45.045(a-1)(1), Code of Criminal
7 Procedure, as added by Chapter 1171 (S.B. 873), Acts of
8 the 84th Legislature, Regular Session, 2015, refers to
9 a "justice of the peace court." Throughout this
10 chapter, the revised law omits "of the peace" for
11 consistency in terminology because "justice court" is
12 more commonly used in the Code of Criminal Procedure.

13 (3) Article 45.045(c), Code of Criminal
14 Procedure, states that that article does not limit
15 certain aspects of the court's authority under Article
16 45.058 of that code. The relevant portion of Article
17 45.058 is revised as Article 45A.453, and the revised
18 law is drafted accordingly.

19 Revised Law

20 Art. 45A.260. APPEARANCE BY TELEPHONE OR VIDEOCONFERENCE.
21 If the justice or judge determines that requiring a defendant to
22 appear before the justice or judge in person for a hearing under
23 Article 45A.258 or 45A.259 would impose an undue hardship on the
24 defendant, the justice or judge may allow the defendant to appear by
25 telephone or videoconference. (Code Crim. Proc., Art. 45.0201.)

26 Source Law

27 Art. 45.0201. APPEARANCE BY TELEPHONE OR
28 VIDEOCONFERENCE. If the justice or judge determines
29 that requiring a defendant to appear before the
30 justice or judge in person for a hearing under Article
31 45.0445 or 45.045 would impose an undue hardship on the
32 defendant, the justice or judge may allow the
33 defendant to appear by telephone or videoconference.

34 Revised Law

35 Art. 45A.261. COMMITMENT. (a) If a judgment and sentence
36 have been entered against a defendant and the defendant defaults in
37 the discharge of the judgment, the judge may order the defendant
38 confined in jail until discharged by law if the judge at a hearing
39 makes a written determination that:

1 (1) the defendant is not indigent and has failed to
2 make a good faith effort to discharge the fines or costs; or

3 (2) the defendant is indigent and:

4 (A) has failed to make a good faith effort to
5 discharge the fines or costs under Article 45A.254; and

6 (B) could have discharged the fines or costs
7 under Article 45A.254 without experiencing any undue hardship.

8 (b) A certified copy of the judgment, sentence, and order is
9 sufficient to authorize confinement under Subsection (a).

10 (c) For purposes of a hearing described by Subsection (a), a
11 defendant may be brought before the court in person or by means of
12 an electronic broadcast system through which an image of the
13 defendant is presented to the court. For purposes of this
14 subsection, "electronic broadcast system" means a two-way
15 electronic communication of image and sound between the defendant
16 and the court and includes secure Internet videoconferencing.

17 (d) For purposes of a hearing described by Subsection (a),
18 if the court that issued the *capias pro fine* is unavailable, the
19 following may conduct the hearing:

20 (1) a justice court or county criminal law magistrate
21 court with jurisdiction over Class C misdemeanors that is located
22 in the same county as the issuing court, if the issuing court was a
23 justice court; or

24 (2) a municipal court that is located in the same
25 municipality as the issuing court, if the issuing court was a
26 municipal court. (Code Crim. Proc., Arts. 45.046(a), (b), (c), (d)
27 as added Acts 84th Leg., R.S., Ch. 1171.)

28 Source Law

29 Art. 45.046. COMMITMENT. (a) When a judgment
30 and sentence have been entered against a defendant and
31 the defendant defaults in the discharge of the
32 judgment, the judge may order the defendant confined
33 in jail until discharged by law if the judge at a
34 hearing makes a written determination that:

35 (1) the defendant is not indigent and has
36 failed to make a good faith effort to discharge the
37 fine or costs; or

38 (2) the defendant is indigent and:

39 (A) has failed to make a good faith

1 effort to discharge the fine or costs under Article
2 45.049; and

3 (B) could have discharged the fine or
4 costs under Article 45.049 without experiencing any
5 undue hardship.

6 (b) A certified copy of the judgment, sentence,
7 and order is sufficient to authorize such confinement.

8 (c) For purposes of a hearing described by
9 Subsection (a), a defendant may be brought before the
10 court in person or by means of an electronic broadcast
11 system through which an image of the defendant is
12 presented to the court. For purposes of this
13 subsection, "electronic broadcast system" means a
14 two-way electronic communication of image and sound
15 between the defendant and the court and includes
16 secure Internet videoconferencing.

17 (d) [as added Acts 84th Leg., R.S., Ch. 1171]
18 For purposes of a hearing described by Subsection (a),
19 if the court that issued the *capias pro fine* is
20 unavailable, the following judicial officers may
21 conduct the hearing:

22 (1) a justice of the peace or county
23 criminal law magistrate with jurisdiction over Class C
24 misdemeanors who is located in the same county as the
25 issuing court, if the issuing court was a justice of
26 the peace court; or

27 (2) a municipal court judge who is located
28 in the same municipality as the issuing court, if the
29 issuing court was a municipal court.

30 Revisor's Note

31 (1) Article 45.046(a)(2), Code of Criminal
32 Procedure, allows a judge to order a defendant
33 confined in jail if the judge makes certain
34 determinations regarding the discharge of fines or
35 costs "under Article 45.049." The relevant portion of
36 Article 45.049 is revised as Article 45A.254, and the
37 revised law is drafted accordingly.

38 (2) Article 45.046(d), Code of Criminal
39 Procedure, as added by Chapter 1182 (S.B. 1139), Acts
40 of the 84th Legislature, Regular Session, 2015, and
41 Article 45.046(d), Code of Criminal Procedure, as
42 added by Chapter 1171 (S.B. 873), Acts of the 84th
43 Legislature, Regular Session, 2015, state that if the
44 court issuing a *capias pro fine* is unavailable,
45 certain other judicial officers may conduct the
46 hearing. The revised law omits Article 45.046(d) as
47 added by Chapter 1182 because in substance it
48 duplicates Article 45.046(d) as added by Chapter 1171,

1 revised as Article 45A.261(d) of this chapter. The
2 omitted law reads:

3 (d) [as added Acts 84th Leg., R.S.,
4 Ch. 1182] For purposes of a hearing
5 described by Subsection (a), if the court
6 that issued the capias pro fine is
7 unavailable, the following judicial
8 officers may conduct the hearing:

9 (1) if the court that issued the
10 capias pro fine was a justice of the peace,
11 a justice of the peace or a county criminal
12 law magistrate with jurisdiction over Class
13 C misdemeanors that is located within the
14 same county as the issuing court; or

15 (2) if the court that issued the
16 capias pro fine was a municipal court, a
17 municipal court judge that is located
18 within the same city as the issuing
19 municipal court.

20 (3) Article 45.046(d), Code of Criminal
21 Procedure, as added by Chapter 1171 (S.B. 873), Acts of
22 the 84th Legislature, Regular Session, 2015, refers to
23 "judicial officers" who may conduct hearings including
24 a "justice of the peace," a "county criminal law
25 magistrate," and a "municipal court judge." It is not
26 necessary to refer to specific judicial officers
27 because the authority to issue a capias pro fine rests
28 with the applicable court. The revised law is drafted
29 accordingly.

30 Revised Law

31 Art. 45A.262. DISCHARGED FROM JAIL. (a) A defendant placed
32 in jail due to failure to pay the fine and costs shall be discharged
33 on habeas corpus by showing that the defendant:

34 (1) is indigent and cannot pay the fine and costs; or

35 (2) has remained in jail for a cumulative period that
36 is sufficient to satisfy the fine and costs, at the rate of not less
37 than \$150 for each separate period served, as specified by the
38 convicting court in the judgment in the case.

39 (b) A convicting court may specify a period that is not less
40 than eight hours or more than 24 hours as the period for which a
41 defendant who fails to pay the fine and costs in the case must
42 remain in jail to satisfy \$150 of the fine and costs. (Code Crim.

1 Proc., Art. 45.048.)

2 Source Law

3 Art. 45.048. DISCHARGED FROM JAIL. (a) A
4 defendant placed in jail on account of failure to pay
5 the fine and costs shall be discharged on habeas corpus
6 by showing that the defendant:

7 (1) is too poor to pay the fine and costs;
8 or

9 (2) has remained in jail a sufficient
10 length of time to satisfy the fine and costs, at the
11 rate of not less than \$150 for each period served, as
12 specified by the convicting court in the judgment in
13 the case.

14 (b) A convicting court may specify a period that
15 is not less than eight hours or more than 24 hours as
16 the period for which a defendant who fails to pay the
17 fine and costs in the case must remain in jail to
18 satisfy \$150 of the fine and costs.

19 Revisor's Note

20 Article 45.048(a)(1), Code of Criminal
21 Procedure, states that a defendant may be discharged
22 on habeas corpus by a showing that the defendant is
23 "too poor to pay" the fine and costs. For consistency
24 in terminology, the revised law substitutes "indigent
25 and cannot pay" for the quoted language because, in
26 this context, the phrases are synonymous and
27 "indigent" is more commonly used in the Code of
28 Criminal Procedure.

29 Revised Law

30 Art. 45A.263. CIVIL COLLECTION OF FINES AND COSTS AFTER
31 JUDGMENT. If, after a judgment and sentence is entered, the
32 defendant defaults in payment of a fine, the justice or judge may
33 order the fine and costs collected by execution against the
34 defendant's property in the same manner as a judgment in a civil
35 suit. (Code Crim. Proc., Art. 45.047.)

36 Source Law

37 Art. 45.047. CIVIL COLLECTION OF FINES AFTER
38 JUDGMENT. If after a judgment and sentence is entered
39 the defendant defaults in payment of a fine, the
40 justice or judge may order the fine and costs collected
41 by execution against the defendant's property in the
42 same manner as a judgment in a civil suit.

43 Revised Law

44 Art. 45A.264. COLLECTION OF FINES AND COSTS BY

1 MUNICIPALITY. (a) The governing body of each municipality shall by
2 ordinance prescribe rules as proper to enforce the collection of
3 fines imposed by a municipal court.

4 (b) In addition to any other method of enforcement, the
5 municipality may enforce the collection of fines by:

6 (1) execution against the property of the defendant;

7 or

8 (2) confinement of the defendant.

9 (c) The governing body of a municipality may adopt rules
10 concerning the practice and procedure in the municipal court that
11 the governing body considers proper.

12 (d) After notice, the governing body of a municipality may
13 by ordinance prescribe the collection of a fine not to exceed \$25
14 for an offense under Section 38.10(e), Penal Code, or Section
15 543.009, Transportation Code. Money collected from the fine shall
16 be paid into the municipal treasury for the use and benefit of the
17 municipality.

18 (e) Costs may not be imposed or collected in criminal cases
19 in municipal court by municipal ordinance. (Code Crim. Proc., Art.
20 45.203.)

21 Source Law

22 Art. 45.203. COLLECTION OF FINES AND COSTS. (a)
23 The governing body of each municipality shall by
24 ordinance prescribe rules, not inconsistent with any
25 law of this state, as may be proper to enforce the
26 collection of fines imposed by a municipal court. In
27 addition to any other method of enforcement, the
28 municipality may enforce the collection of fines by:

29 (1) execution against the property of the
30 defendant; or

31 (2) imprisonment of the defendant.

32 (b) The governing body of a municipality may
33 adopt such rules and regulations, not inconsistent
34 with any law of this state, concerning the practice and
35 procedure in the municipal court as the governing body
36 may consider proper.

37 (c) The governing body of each municipality may
38 prescribe by ordinance the collection, after due
39 notice, of a fine not to exceed \$25 for an offense
40 under Section 38.10(e), Penal Code, or Section
41 543.009, Transportation Code. Money collected from
42 the fine shall be paid into the municipal treasury for
43 the use and benefit of the municipality.

44 (d) Costs may not be imposed or collected in
45 criminal cases in municipal court by municipal
46 ordinance.

1 Revisor's Note

2 (1) Article 45.203(a), Code of Criminal
3 Procedure, refers to a defendant's "imprisonment." The
4 revised law substitutes "confinement" for
5 "imprisonment" to conform to the terminology used in
6 the Penal Code and the Code of Criminal Procedure.

7 (2) Articles 45.203(a) and (b), Code of Criminal
8 Procedure, provide for a municipality to adopt rules
9 "not inconsistent with any law of this state." The
10 revised law omits the quoted language as unnecessary
11 because as a general principle of law, a municipality
12 may not adopt a rule inconsistent with any law of this
13 state.

14 (3) Article 45.203(b), Code of Criminal
15 Procedure, refers to "rules and regulations" a
16 municipality may adopt. The revised law omits "and
17 regulations" because Section 311.005(5), Government
18 Code (Code Construction Act), defines "rule" to
19 include "regulation." The Code Construction Act is
20 applicable to the revised law and any other provision
21 of the Code of Criminal Procedure enacted under
22 Section 43, Article III, Texas Constitution
23 (authorizing the continuing statutory revision
24 program), in the same manner as to an entire code
25 enacted under the continuing statutory revision
26 program, except as otherwise expressly provided by the
27 Code of Criminal Procedure. See Section 6.02(a),
28 Chapter 1058 (H.B. 2931), Acts of the 85th
29 Legislature, Regular Session, 2017.

30 (4) Article 45.203(c), Code of Criminal
31 Procedure, refers to the collection of certain fines
32 after "due" notice. The revised law omits "due" as
33 unnecessary because the specific notice requirements
34 applicable to the payment of those fines provide

1 sufficient authority for compliance with those
2 requirements.

3 SUBCHAPTER G. DEFERRED DISPOSITION

4 Revised Law

5 Art. 45A.301. APPLICABILITY. This subchapter does not
6 apply to:

7 (1) an offense to which Section 542.404,
8 Transportation Code, applies; or

9 (2) a violation of a state law or local ordinance
10 relating to motor vehicle control, other than a parking violation,
11 committed by a person who:

12 (A) holds a commercial driver's license; or

13 (B) held a commercial driver's license when the
14 offense was committed. (Code Crim. Proc., Art. 45.051(f).)

15 Source Law

16 (f) This article does not apply to:

17 (1) an offense to which Section 542.404,
18 Transportation Code, applies; or

19 (2) a violation of a state law or local
20 ordinance relating to motor vehicle control, other
21 than a parking violation, committed by a person who:

22 (A) holds a commercial driver's
23 license; or

24 (B) held a commercial driver's
25 license when the offense was committed.

26 Revised Law

27 Art. 45A.302. DEFERRED DISPOSITION. (a) On a plea of
28 guilty or nolo contendere by a defendant or on a finding of guilt in
29 a misdemeanor case punishable by fine only and payment of all court
30 costs, a judge may defer further proceedings for a period not to
31 exceed 180 days without entering an adjudication of guilt.

32 (b) In issuing the order of deferral, the judge may impose a
33 fine on the defendant in an amount not to exceed the amount of the
34 fine that could be imposed on the defendant as punishment for the
35 offense.

36 (c) The fine described by Subsection (b) may be collected at
37 any time before the date on which the period of deferral ends. A
38 judge who orders the collection of the fine must require that the

1 amount of the fine be credited toward the payment of the amount of
2 any fine imposed by the judge as punishment for the offense.

3 (d) The judge may elect not to impose the fine for good cause
4 shown by the defendant.

5 (e) An order of deferral under this article terminates any
6 liability under a bond given for the charge. (Code Crim. Proc.,
7 Art. 45.051(a).)

8 Source Law

9 Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL
10 OF FINAL DISPOSITION. (a) On a plea of guilty or nolo
11 contendere by a defendant or on a finding of guilt in a
12 misdemeanor case punishable by fine only and payment
13 of all court costs, the judge may defer further
14 proceedings without entering an adjudication of guilt
15 and place the defendant on probation for a period not
16 to exceed 180 days. In issuing the order of deferral,
17 the judge may impose a fine on the defendant in an
18 amount not to exceed the amount of the fine that could
19 be imposed on the defendant as punishment for the
20 offense. The fine may be collected at any time before
21 the date on which the period of probation ends. The
22 judge may elect not to impose the fine for good cause
23 shown by the defendant. If the judge orders the
24 collection of a fine under this subsection, the judge
25 shall require that the amount of the fine be credited
26 toward the payment of the amount of any fine imposed by
27 the judge as punishment for the offense. An order of
28 deferral under this subsection terminates any
29 liability under a bond given for the charge.

30 Revisor's Note

31 Article 45.051(a), Code of Criminal Procedure,
32 allows a judge under certain circumstances to defer
33 further proceedings without entering an adjudication
34 of guilt "and place the defendant on probation."
35 Article 45.051(a) also refers to a period of
36 "probation." The revised law omits the phrase "and
37 place the defendant on probation" as unnecessary
38 because, in this context, placing a defendant on
39 probation is included in the concept of deferring
40 further proceedings without entering an adjudication
41 of guilt. For consistency in terminology, throughout
42 this chapter, the revised law substitutes "deferral"
43 for "probation" because, in this context, the terms
44 are synonymous and "deferral" is the more commonly

1 used term in the Code of Criminal Procedure.

2 Revised Law

3 Art. 45A.303. DEFERRED DISPOSITION REQUIREMENTS. (a)

4 Notwithstanding any other law, as an alternative to requiring a
5 defendant charged with one or more offenses to pay all fines and
6 court costs as required by Article 45A.302, the judge may:

7 (1) allow the defendant to enter into an agreement to
8 pay those fines and costs in installments during the defendant's
9 period of deferral;

10 (2) require an eligible defendant to discharge all or
11 part of those fines and costs by performing community service or
12 attending a tutoring program under Article 45A.254 or 45A.460;

13 (3) waive all or part of those fines and costs under
14 Article 45A.257; or

15 (4) take any combination of actions authorized by
16 Subdivision (1), (2), or (3).

17 (b) During the deferral period, the judge may require the
18 defendant to:

19 (1) secure payment of the fine by posting a bond in
20 the amount of the fine assessed as punishment for the offense;

21 (2) pay restitution to the victim of the offense in an
22 amount not to exceed the amount of the fine assessed as punishment
23 for the offense;

24 (3) submit to professional counseling;

25 (4) submit to diagnostic testing for alcohol or a
26 controlled substance or drug;

27 (5) submit to a psychosocial assessment;

28 (6) successfully complete an alcohol or drug abuse
29 treatment or education program, such as:

30 (A) a drug education program that is designed to
31 educate persons on the dangers of drug abuse in accordance with
32 Section 521.374(a)(1), Transportation Code, and that is regulated
33 by the Texas Department of Licensing and Regulation under Chapter
34 171, Government Code; or

1 (B) an alcohol awareness program described by
2 Section 106.115, Alcoholic Beverage Code, that is regulated by the
3 Texas Department of Licensing and Regulation under Chapter 171,
4 Government Code;

5 (7) pay the costs of any diagnostic testing,
6 psychosocial assessment, or treatment or education program
7 participation as reimbursement fees:

8 (A) directly; or

9 (B) through the court as court costs;

10 (8) complete a driving safety course approved under
11 Chapter 1001, Education Code, or another course as directed by the
12 judge;

13 (9) present to the court satisfactory evidence that
14 the defendant has complied with each requirement imposed by the
15 judge under this subchapter; and

16 (10) comply with any other reasonable condition.

17 (c) A judge who requires a defendant to successfully
18 complete an alcohol awareness program or drug education program as
19 described by Subsection (b)(6) shall require the defendant to pay a
20 reimbursement fee for the cost of the program, unless the judge
21 determines that the defendant is indigent and unable to pay the
22 cost.

23 (d) The judge may allow the defendant to pay the fee
24 described by Subsection (c) in installments during the deferral
25 period. (Code Crim. Proc., Arts. 45.051(a-1), (b), (g).)

26 Source Law

27 (a-1) Notwithstanding any other provision of
28 law, as an alternative to requiring a defendant
29 charged with one or more offenses to make payment of
30 all fines and court costs as required by Subsection
31 (a), the judge may:

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

36 (2) require an eligible defendant to
37 discharge all or part of those fines and costs by
38 performing community service or attending a tutoring
39 program under Article 45.049 or under Article 45.0492,
40 as added by Chapter 227 (H.B. 350), Acts of the 82nd
41 Legislature, Regular Session, 2011;

1 (3) waive all or part of those fines and
2 costs under Article 45.0491; or

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

5 (b) During the deferral period, the judge may
6 require the defendant to:

7 (1) post a bond in the amount of the fine
8 assessed as punishment for the offense to secure
9 payment of the fine;

10 (2) pay restitution to the victim of the
11 offense in an amount not to exceed the fine assessed as
12 punishment for the offense;

13 (3) submit to professional counseling;

14 (4) submit to diagnostic testing for
15 alcohol or a controlled substance or drug;

16 (5) submit to a psychosocial assessment;

17 (6) successfully complete an alcohol or
18 drug abuse treatment or education program, such as:

19 (A) a drug education program that is
20 designed to educate persons on the dangers of drug
21 abuse in accordance with Section 521.374(a)(1),
22 Transportation Code, and that is regulated by the
23 Texas Department of Licensing and Regulation under
24 Chapter 171, Government Code; or

25 (B) an alcohol awareness program
26 described by Section 106.115, Alcoholic Beverage Code,
27 that is regulated by the Texas Department of Licensing
28 and Regulation under Chapter 171, Government Code;

29 (7) pay as reimbursement fees the costs of
30 any diagnostic testing, psychosocial assessment, or
31 participation in a treatment or education program
32 either directly or through the court as court costs;

33 (8) complete a driving safety course
34 approved under Chapter 1001, Education Code, or
35 another course as directed by the judge;

36 (9) present to the court satisfactory
37 evidence that the defendant has complied with each
38 requirement imposed by the judge under this article;
39 and

40 (10) comply with any other reasonable
41 condition.

42 (g) If a judge requires a defendant under
43 Subsection (b) to successfully complete an alcohol
44 awareness program or drug education program as
45 described by Subdivision (6) of that subsection,
46 unless the judge determines that the defendant is
47 indigent and unable to pay the cost, the judge shall
48 require the defendant to pay a reimbursement fee for
49 the cost of the program. The judge may allow the
50 defendant to pay the fee in installments during the
51 deferral period.

52 Revisor's Note

53 Article 45.051(a-1)(2), Code of Criminal
54 Procedure, allows a judge to require an eligible
55 defendant to discharge fines and costs by performing
56 community service "under Article 45.049." The relevant
57 portion of Article 45.049 is revised as Article
58 45A.254, and the revised law is drafted accordingly.

1 Revised Law

2 Art. 45A.304. DEFERRED DISPOSITION REQUIREMENTS: MOVING
3 VIOLATION COMMITTED BY YOUNG DEFENDANT. (a) This article applies
4 to a defendant who:

5 (1) is younger than 25 years of age; and

6 (2) committed a traffic offense classified as a moving
7 violation.

8 (b) Notwithstanding Article 45A.303(b)(8), during a
9 deferral period ordered under this subchapter, the judge shall
10 require that a defendant described by Subsection (a):

11 (1) complete a driving safety course approved under
12 Chapter 1001, Education Code; and

13 (2) if the defendant holds a provisional license, be
14 examined by the Department of Public Safety as required by Section
15 521.161(b)(2), Transportation Code.

16 (c) A defendant remains subject to the examination required
17 by Subsection (b)(2) regardless of whether the defendant was
18 examined previously.

19 (d) A defendant examined as required by Subsection (b)(2)
20 must pay a \$10 reimbursement fee for the examination.

21 (e) The reimbursement fee collected under Subsection (d)
22 must be deposited to the credit of a special account in the general
23 revenue fund and may be used only by the Department of Public Safety
24 for the administration of Chapter 521, Transportation Code. (Code
25 Crim. Proc., Arts. 45.051(b-1), (b-2), (b-3).)

26 Source Law

27 (b-1) If the defendant is younger than 25 years
28 of age and the offense committed by the defendant is a
29 traffic offense classified as a moving violation:

30 (1) Subsection (b)(8) does not apply;

31 (2) during the deferral period, the judge
32 shall require the defendant to complete a driving
33 safety course approved under Chapter 1001, Education
34 Code; and

35 (3) if the defendant holds a provisional
36 license, during the deferral period the judge shall
37 require that the defendant be examined by the
38 Department of Public Safety as required by Section
39 521.161(b)(2), Transportation Code; a defendant is not
40 exempt from the examination regardless of whether the
41 defendant was examined previously.

1 (b-2) A person examined as required by
2 Subsection (b-1)(3) must pay a \$10 reimbursement fee
3 for the examination.

4 (b-3) The reimbursement fee collected under
5 Subsection (b-2) must be deposited to the credit of a
6 special account in the general revenue fund and may be
7 used only by the Department of Public Safety for the
8 administration of Chapter 521, Transportation Code.

9 Revisor's Note

10 (1) Article 45.051(b-1)(2), Code of Criminal
11 Procedure, refers to the deferral period for certain
12 defendants. For the convenience of the reader, the
13 revised law adds "ordered under this subchapter"
14 because the provisions relating to a judge's order of a
15 deferral period for those defendants are revised in
16 this subchapter.

17 (2) Article 45.051(b-2), Code of Criminal
18 Procedure, refers to a "person" who must pay a
19 reimbursement fee for a required examination. For
20 consistency in terminology within this article, the
21 revised law substitutes "defendant" for "person"
22 because, in this context, the terms are synonymous and
23 "defendant" is the more commonly used term in this
24 article.

25 Revised Law

26 Art. 45A.305. DISMISSAL OF COMPLAINT ON COMPLIANCE WITH
27 JUDICIAL REQUIREMENTS. (a) On determining that the defendant has
28 complied with the requirements imposed by the judge under this
29 subchapter, the judge shall dismiss the complaint.

30 (b) If a complaint is dismissed under Subsection (a), there
31 is not a final conviction and the complaint may not be used against
32 the person for any purpose.

33 (c) The docket must clearly note that the judge dismissed
34 the complaint and that there is not a final conviction.

35 (d) Records relating to a complaint dismissed as provided by
36 Subsection (a) may be expunged under Subchapter A, B, or C, Chapter
37 55A. (Code Crim. Proc., Arts. 45.051(c), (e).)

1 period during which the defendant may present evidence
2 of the defendant's compliance with the requirements.

3 (d) If on the date of a show cause hearing under
4 Subsection (c-1) or, if applicable, by the conclusion
5 of an additional period provided under Subsection
6 (c-2) the defendant does not present satisfactory
7 evidence that the defendant complied with the
8 requirements imposed, the judge may impose the fine
9 assessed or impose a lesser fine. The imposition of
10 the fine or lesser fine constitutes a final conviction
11 of the defendant. . . .

12 (d-1) If the defendant was required to complete
13 a driving safety course or an examination under
14 Subsection (b-1) and on the date of a show cause
15 hearing under Subsection (c-1) or, if applicable, by
16 the conclusion of an additional period provided under
17 Subsection (c-2) the defendant does not present
18 satisfactory evidence that the defendant completed
19 that course or examination, the judge shall impose the
20 fine assessed. The imposition of the fine constitutes
21 a final conviction of the defendant.

22 Revisor's Note

23 (1) Article 45.051(d), Code of Criminal
24 Procedure, provides an exception to the application of
25 that subsection for a defendant who is required to
26 complete a driving safety course or an examination.
27 The revised law omits that provision as unnecessary
28 because Article 45.051(d-1), revised as Subsection (c)
29 of this article, already sufficiently establishes that
30 exception with respect to those defendants. The
31 omitted law reads:

32 (d) . . . This subsection does not
33 apply to a defendant required under
34 Subsection (b-1) to complete a driving
35 safety course approved under Chapter 1001,
36 Education Code, or an examination under
37 Section 521.161(b)(2), Transportation
38 Code.

39 (2) Articles 45.051(d) and (d-1), Code of
40 Criminal Procedure, include a reference to a driving
41 safety course and an examination "under Subsection
42 (b-1)." The relevant portions of Article 45.051(b-1)
43 are revised as Article 45A.304(b), and the revised law
44 is drafted accordingly.

45 SUBCHAPTER H. DRIVING SAFETY OR MOTORCYCLE OPERATOR COURSE

46 DISMISSAL

1 Revised Law

2 Art. 45A.351. APPLICABILITY. (a) Except as provided by
3 Subsections (b) and (c), this subchapter applies only to an alleged
4 offense that:

5 (1) is within the jurisdiction of a justice or
6 municipal court;

7 (2) involves the operation of a motor vehicle; and

8 (3) is defined by:

9 (A) Section 472.022, Transportation Code;

10 (B) Subtitle C, Title 7, Transportation Code; or

11 (C) Section 729.001(a)(3), Transportation Code.

12 (b) If the defendant is younger than 25 years of age, this
13 subchapter applies to any alleged offense that:

14 (1) is within the jurisdiction of a justice or
15 municipal court;

16 (2) involves the operation of a motor vehicle; and

17 (3) is classified as a moving violation.

18 (c) This subchapter does not apply to an offense committed
19 by a person who:

20 (1) holds a commercial driver's license; or

21 (2) held a commercial driver's license when the
22 offense was committed. (Code Crim. Proc., Arts. 45.0511(a), (a-1),
23 (s); New.)

24 Source Law

25 Art. 45.0511. DRIVING SAFETY COURSE OR
26 MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a)
27 Except as provided by Subsection (a-1), this article
28 applies only to an alleged offense that:

29 (1) is within the jurisdiction of a
30 justice court or a municipal court;

31 (2) involves the operation of a motor
32 vehicle; and

33 (3) is defined by:

34 (A) Section 472.022, Transportation
35 Code;

36 (B) Subtitle C, Title 7,
37 Transportation Code; or

38 (C) Section 729.001(a)(3),
39 Transportation Code.

40 (a-1) If the defendant is younger than 25 years
41 of age, this article applies to any alleged offense
42 that:

43 (1) is within the jurisdiction of a

1 justice court or a municipal court;
2 (2) involves the operation of a motor
3 vehicle; and
4 (3) is classified as a moving violation.

5 (s) This article does not apply to an offense
6 committed by a person who:

7 (1) holds a commercial driver's license;
8 or
9 (2) held a commercial driver's license
10 when the offense was committed.

11 Revisor's Note

12 Article 45.0511(a), Code of Criminal Procedure,
13 states that "[e]xcept as provided by Subsection (a-1),
14 this article applies" only to specific offenses.
15 Article 45.0511(a-1) is revised in this article as
16 Subsection (b). For the convenience of the reader and
17 because it is clear from the context that Article
18 45.0511(s), revised in this article as Subsection (c),
19 is also an exception to Subsection (a), the revised law
20 adds a cross-reference to Subsection (c). The revised
21 law is drafted accordingly.

22 Revised Law

23 Art. 45A.352. DRIVING SAFETY OR MOTORCYCLE OPERATOR
24 TRAINING COURSE COMPLETION. (a) The judge shall require a
25 defendant to successfully complete a driving safety course approved
26 by the Texas Department of Licensing and Regulation or a course
27 under the motorcycle operator training and safety program approved
28 by the designated state agency under Chapter 662, Transportation
29 Code, if:

30 (1) the defendant elects driving safety course or
31 motorcycle operator training course dismissal under this
32 subchapter;

33 (2) the defendant:

34 (A) has a Texas driver's license or permit; or

35 (B) is a member, or the spouse or dependent child
36 of a member, of the United States military forces serving on active
37 duty;

38 (3) either:

1 (A) the defendant has not completed an approved
2 driving safety course or motorcycle operator training course, as
3 appropriate, within the 12-month period preceding the date of the
4 offense; or

5 (B) the defendant:

6 (i) does not have a Texas driver's license
7 or permit;

8 (ii) is a member, or the spouse or dependent
9 child of a member, of the United States military forces serving on
10 active duty; and

11 (iii) has not completed a driving safety
12 course or motorcycle operator training course, as appropriate, in
13 another state within the 12-month period preceding the date of the
14 offense;

15 (4) on or before the answer date on the notice to
16 appear, the defendant enters, under Article 45A.151(a), a plea of
17 nolo contendere or guilty in person or in writing and:

18 (A) presents in person or by counsel to the court
19 a request to take a course; or

20 (B) sends to the court by certified mail, return
21 receipt requested, postmarked on or before the answer date on the
22 notice to appear, a written request to take a course;

23 (5) the defendant is charged with an offense to which
24 this subchapter applies, other than speeding at a speed of:

25 (A) 95 miles per hour or more; or

26 (B) 25 miles per hour or more over the posted
27 speed limit; and

28 (6) the defendant provides evidence of financial
29 responsibility as required by Chapter 601, Transportation Code.

30 (b) The court may dismiss only one charge for each
31 completion of a course described by Subsection (a).

32 (c) Notwithstanding Subsections (a)(3) and (4), before the
33 final disposition of the case, the court may grant a request to take
34 a driving safety course or a motorcycle operator training course

1 under this subchapter.

2 (d) A request to take a driving safety course or motorcycle
3 operator training course made at or before the time and at the place
4 at which a defendant is required to appear in court is an appearance
5 in compliance with the defendant's promise to appear. (Code Crim.
6 Proc., Arts. 45.0511(b), (d), (e), (m).)

7 Source Law

8 (b) The judge shall require the defendant to
9 successfully complete a driving safety course approved
10 by the Texas Department of Licensing and Regulation or
11 a course under the motorcycle operator training and
12 safety program approved by the designated state agency
13 under Chapter 662, Transportation Code, if:

14 (1) the defendant elects driving safety
15 course or motorcycle operator training course
16 dismissal under this article;

17 (2) the defendant:

18 (A) has not completed an approved
19 driving safety course or motorcycle operator training
20 course, as appropriate, within the 12 months preceding
21 the date of the offense; or

22 (B) does not have a valid Texas
23 driver's license or permit, is a member, or the spouse
24 or dependent child of a member, of the United States
25 military forces serving on active duty, and has not
26 completed a driving safety course or motorcycle
27 operator training course, as appropriate, in another
28 state within the 12 months preceding the date of the
29 offense;

30 (3) the defendant enters a plea under
31 Article 45.021 in person or in writing of no contest or
32 guilty on or before the answer date on the notice to
33 appear and:

34 (A) presents in person or by counsel
35 to the court a request to take a course; or

36 (B) sends to the court by certified
37 mail, return receipt requested, postmarked on or
38 before the answer date on the notice to appear, a
39 written request to take a course;

40 (4) the defendant:

41 (A) has a valid Texas driver's
42 license or permit; or

43 (B) is a member, or the spouse or
44 dependent child of a member, of the United States
45 military forces serving on active duty;

46 (5) the defendant is charged with an
47 offense to which this article applies, other than
48 speeding at a speed of:

49 (A) 95 miles per hour or more; or

50 (B) 25 miles per hour or more over the
51 posted speed limit; and

52 (6) the defendant provides evidence of
53 financial responsibility as required by Chapter 601,
54 Transportation Code.

55 (d) Notwithstanding Subsections (b)(2) and (3),
56 before the final disposition of the case, the court may
57 grant a request to take a driving safety course or a
58 motorcycle operator training course under this
59 article.

1 (e) A request to take a driving safety course or
2 motorcycle operator training course made at or before
3 the time and at the place at which a defendant is
4 required to appear in court is an appearance in
5 compliance with the defendant's promise to appear.

6 (m) The court may dismiss only one charge for
7 each completion of a course.

8 Revisor's Note

9 Articles 45.0511(b)(2)(B) and (b)(4)(A), Code of
10 Criminal Procedure, refer to a "valid Texas driver's
11 license or permit." The revised law omits "valid" as
12 unnecessary because a purported license or permit is
13 not a license or permit if it is not valid.

14 Revised Law

15 Art. 45A.353. CERTAIN DEFENDANTS ENTITLED TO COMPLETE
16 DRIVING SAFETY OR MOTORCYCLE OPERATOR TRAINING COURSE. The court
17 shall advise a defendant charged with a misdemeanor under Section
18 472.022, Transportation Code, Subtitle C, Title 7, Transportation
19 Code, or Section 729.001(a)(3), Transportation Code, committed
20 while operating a motor vehicle of the defendant's right under this
21 subchapter to successfully complete a driving safety course or, if
22 the offense was committed while operating a motorcycle, a
23 motorcycle operator training course. The right to complete a
24 course does not apply to a defendant charged with:

25 (1) a violation of Section 545.066, 550.022, or
26 550.023, Transportation Code;

27 (2) a serious traffic violation; or

28 (3) an offense to which Section 542.404,
29 Transportation Code, applies. (Code Crim. Proc., Art. 45.0511(p).)

30 Source Law

31 (p) The court shall advise a defendant charged
32 with a misdemeanor under Section 472.022,
33 Transportation Code, Subtitle C, Title 7,
34 Transportation Code, or Section 729.001(a)(3),
35 Transportation Code, committed while operating a motor
36 vehicle of the defendant's right under this article to
37 successfully complete a driving safety course or, if
38 the offense was committed while operating a
39 motorcycle, a motorcycle operator training course.
40 The right to complete a course does not apply to a
41 defendant charged with:

42 (1) a violation of Section 545.066,
43 550.022, or 550.023, Transportation Code;

1 (2) a serious traffic violation; or
2 (3) an offense to which Section 542.404,
3 Transportation Code, applies.

4 Revised Law

5 Art. 45A.354. CONTENT OF NOTICE TO APPEAR. (a) A notice to
6 appear issued for an offense to which this subchapter applies must
7 inform a defendant charged with an offense under Section 472.022,
8 Transportation Code, an offense under Subtitle C, Title 7,
9 Transportation Code, or an offense under Section 729.001(a)(3),
10 Transportation Code, committed while operating a motor vehicle of
11 the defendant's right to complete a driving safety course or, if the
12 offense was committed while operating a motorcycle, of the
13 defendant's right to complete a motorcycle operator training
14 course. The notice required by this subsection must read
15 substantially as follows:

16 "You may be able to require that this charge be dismissed by
17 successfully completing a driving safety course or a motorcycle
18 operator training course. You will lose that right if, on or before
19 your appearance date, you do not provide the court with notice of
20 your request to take the course."

21 (b) If the notice required by Subsection (a) is not provided
22 to the defendant charged with the offense, the defendant may
23 continue to exercise the defendant's right to take a driving safety
24 course or a motorcycle operator training course until the notice
25 required by Subsection (a) is provided to the defendant or there is
26 a final disposition of the case. (Code Crim. Proc., Arts.
27 45.0511(q), (r).)

28 Source Law

29 (q) A notice to appear issued for an offense to
30 which this article applies must inform a defendant
31 charged with an offense under Section 472.022,
32 Transportation Code, an offense under Subtitle C,
33 Title 7, Transportation Code, or an offense under
34 Section 729.001(a)(3), Transportation Code, committed
35 while operating a motor vehicle of the defendant's
36 right to complete a driving safety course or, if the
37 offense was committed while operating a motorcycle, of
38 the defendant's right to complete a motorcycle
39 operator training course. The notice required by this
40 subsection must read substantially as follows:

41 "You may be able to require that this charge be
42 dismissed by successfully completing a driving safety

1 course or a motorcycle operator training course. You
2 will lose that right if, on or before your appearance
3 date, you do not provide the court with notice of your
4 request to take the course."

5 (r) If the notice required by Subsection (q) is
6 not provided to the defendant charged with the
7 offense, the defendant may continue to exercise the
8 defendant's right to take a driving safety course or a
9 motorcycle operator training course until the notice
10 required by Subsection (q) is provided to the
11 defendant or there is a final disposition of the case.

12 Revised Law

13 Art. 45A.355. EXTENSION FOR GOOD CAUSE. On a defendant's
14 showing of good cause for failure to provide evidence to the court,
15 the court may allow an additional period during which the defendant
16 may present:

17 (1) a uniform certificate of course completion as
18 evidence that the defendant successfully completed the driving
19 safety course; or

20 (2) a verification of course completion as evidence
21 that the defendant successfully completed the motorcycle operator
22 training course. (Code Crim. Proc., Art. 45.0511(k).)

23 Source Law

24 (k) On a defendant's showing of good cause for
25 failure to furnish evidence to the court, the court may
26 allow an extension of time during which the defendant
27 may present:

28 (1) a uniform certificate of course
29 completion as evidence that the defendant successfully
30 completed the driving safety course; or

31 (2) a verification of course completion as
32 evidence that the defendant successfully completed the
33 motorcycle operator training course.

34 Revised Law

35 Art. 45A.356. JUDICIAL ACTIONS FOLLOWING PLEA; SHOW CAUSE
36 HEARING. (a) The court shall enter judgment on a defendant's plea
37 of nolo contendere or guilty at the time the plea is made, defer
38 imposition of the judgment, and allow the defendant a 90-day period
39 to successfully complete the approved driving safety course or
40 motorcycle operator training course and present to the court:

41 (1) a uniform certificate of completion of the driving
42 safety course or a verification of completion of the motorcycle
43 operator training course;

44 (2) unless the judge proceeds under Article 45A.359,

1 the defendant's driving record as maintained by the Department of
2 Public Safety, if any, showing that the defendant has not completed
3 an approved driving safety course or motorcycle operator training
4 course, as applicable, within the 12-month period preceding the
5 date of the offense;

6 (3) an affidavit stating that the defendant:

7 (A) was not taking a driving safety course or
8 motorcycle operator training course, as applicable, under this
9 subchapter on the date the request to take the course was made; and

10 (B) has not completed, within the 12-month period
11 preceding the date of the offense, a course described by Paragraph
12 (A) that is not shown on the defendant's driving record; and

13 (4) if the defendant does not have a Texas driver's
14 license or permit and is a member, or the spouse or dependent child
15 of a member, of the United States military forces serving on active
16 duty, an affidavit stating that the defendant:

17 (A) was not taking a driving safety course or
18 motorcycle operator training course, as applicable, in another
19 state on the date the request to take the course was made; and

20 (B) has not completed a course described by
21 Paragraph (A) within the 12-month period preceding the date of the
22 offense.

23 (b) If the judge proceeds under Article 45A.359 and the copy
24 of the defendant's driving record provided to the judge under
25 Subsection (c) of that article shows that the defendant has not
26 completed an approved driving safety course or motorcycle operator
27 training course, as applicable, within the 12-month period
28 preceding the date of the offense, the judge shall allow the
29 defendant to complete the appropriate course as provided by this
30 article.

31 (c) If a defendant satisfies the requirements of Subsection
32 (a), the court shall:

33 (1) remove the judgment and dismiss the charge;

34 (2) report the fact that the defendant successfully

1 completed a driving safety course or a motorcycle operator training
2 course and the date of completion to the Department of Public Safety
3 for inclusion in the defendant's driving record; and

4 (3) state in the report under Subdivision (2) whether
5 the course was taken under this subchapter to provide information
6 necessary to determine eligibility to take a subsequent course
7 under Article 45A.352(a).

8 (d) An order of deferral under Subsection (a) terminates any
9 liability under a bond given for the charge.

10 (e) If a defendant requesting a course under this subchapter
11 fails to satisfy the requirements of Subsection (a), the court
12 shall:

13 (1) notify the defendant in writing, mailed to the
14 address on file with the court or appearing on the notice to appear,
15 of that failure; and

16 (2) require the defendant to appear at the time and
17 place stated in the notice to show cause why the evidence was not
18 timely submitted to the court.

19 (f) If the defendant fails to appear at the time and place
20 stated in the notice under Subsection (e), or appears at the time
21 and place stated in the notice but does not show good cause for the
22 defendant's failure to satisfy the requirements of Subsection (a),
23 the court shall enter an adjudication of guilt and impose sentence.
24 (Code Crim. Proc., Arts. 45.0511(c), (c-1) (part), (i), (j), (l),
25 (t).)

26 Source Law

27 (c) The court shall enter judgment on the
28 defendant's plea of no contest or guilty at the time
29 the plea is made, defer imposition of the judgment, and
30 allow the defendant 90 days to successfully complete
31 the approved driving safety course or motorcycle
32 operator training course and present to the court:

33 (1) a uniform certificate of completion of
34 the driving safety course or a verification of
35 completion of the motorcycle operator training course;

36 (2) unless the judge proceeds under
37 Subsection (c-1), the defendant's driving record as
38 maintained by the Department of Public Safety, if any,
39 showing that the defendant had not completed an
40 approved driving safety course or motorcycle operator
41 training course, as applicable, within the 12 months

1 preceding the date of the offense;

2 (3) an affidavit stating that the
3 defendant was not taking a driving safety course or
4 motorcycle operator training course, as applicable,
5 under this article on the date the request to take the
6 course was made and had not completed such a course
7 that is not shown on the defendant's driving record
8 within the 12 months preceding the date of the offense;
9 and

10 (4) if the defendant does not have a valid
11 Texas driver's license or permit and is a member, or
12 the spouse or dependent child of a member, of the
13 United States military forces serving on active duty,
14 an affidavit stating that the defendant was not taking
15 a driving safety course or motorcycle operator
16 training course, as appropriate, in another state on
17 the date the request to take the course was made and
18 had not completed such a course within the 12 months
19 preceding the date of the offense.

20 (c-1) . . . If the copy of the defendant's
21 driving record provided to the judge under this
22 subsection shows that the defendant has not completed
23 an approved driving safety course or motorcycle
24 operator training course, as appropriate, within the
25 12 months preceding the date of the offense, the judge
26 shall allow the defendant to complete the appropriate
27 course as provided by this article. . . .

28 (i) If a defendant requesting a course under
29 this article fails to comply with Subsection (c), the
30 court shall:

31 (1) notify the defendant in writing,
32 mailed to the address on file with the court or
33 appearing on the notice to appear, of that failure; and

34 (2) require the defendant to appear at the
35 time and place stated in the notice to show cause why
36 the evidence was not timely submitted to the court.

37 (j) If the defendant fails to appear at the time
38 and place stated in the notice under Subsection (i), or
39 appears at the time and place stated in the notice but
40 does not show good cause for the defendant's failure to
41 comply with Subsection (c), the court shall enter an
42 adjudication of guilt and impose sentence.

43 (l) When a defendant complies with Subsection
44 (c), the court shall:

45 (1) remove the judgment and dismiss the
46 charge;

47 (2) report the fact that the defendant
48 successfully completed a driving safety course or a
49 motorcycle operator training course and the date of
50 completion to the Texas Department of Public Safety
51 for inclusion in the person's driving record; and

52 (3) state in that report whether the
53 course was taken under this article to provide
54 information necessary to determine eligibility to take
55 a subsequent course under Subsection (b).

56 (t) An order of deferral under Subsection (c)
57 terminates any liability under a bond given for the
58 charge.

59 Revisor's Note

60 (1) Article 45.0511(c)(4), Code of Criminal
61 Procedure, refers to a "valid Texas driver's license or

1 permit." The revised law omits "valid" for the reason
2 stated in the revisor's note to Article 45A.352.

3 (2) Article 45.0511(c-1), Code of Criminal
4 Procedure, requires a judge to allow a defendant to
5 complete the appropriate driving safety course or
6 motorcycle operator training course if the defendant's
7 driving record shows the defendant has not completed
8 the course within a certain period and if, as an
9 alternative to receiving the defendant's driving
10 record from the defendant, the judge requested the
11 Texas Department of Public Safety to provide the
12 driving record. Because the provisions of Subsection
13 (c-1) relating to the retrieval of the defendant's
14 driving record are revised in Article 45A.359, the
15 revised law adds a cross-reference to that provision
16 for clarity and the convenience of the reader.

17 (3) Article 45.0511(c-1), Code of Criminal
18 Procedure, refers to the copy of the defendant's
19 driving record provided to the judge under "this
20 subsection." The relevant portion of Subsection (c-1)
21 is revised in Article 45A.359(c), and the revised law
22 is drafted accordingly.

23 (4) Article 45.0511(c-1), Code of Criminal
24 Procedure, requires a judge to allow a defendant to
25 complete the appropriate driving safety course or
26 motorcycle operator training course "as provided by
27 this article." The relevant portion of Article
28 45.0511 is revised only in this article, and the
29 revised law is drafted accordingly.

30 (5) Article 45.0511(1)(2), Code of Criminal
31 Procedure, refers to a "person's" driving record. For
32 consistency in terminology in this article, the
33 revised law substitutes "defendant's" for "person's"
34 because, in this context, the terms are synonymous and

1 "defendant" is the more commonly used term in this
2 article.

3 Revised Law

4 Art. 45A.357. EFFECT OF DISMISSAL OR COURSE COMPLETION.

5 (a) A charge that is dismissed under this subchapter may not be
6 part of a person's driving record or used for any purpose.

7 (b) An insurer delivering or issuing for delivery a motor
8 vehicle insurance policy in this state may not cancel or increase
9 the premium charged an insured under the policy because the
10 insured:

11 (1) completed a driving safety course or a motorcycle
12 operator training course; or

13 (2) had a charge dismissed under this subchapter.
14 (Code Crim. Proc., Arts. 45.0511(n), (o).)

15 Source Law

16 (n) A charge that is dismissed under this
17 article may not be part of a person's driving record or
18 used for any purpose.

19 (o) An insurer delivering or issuing for
20 delivery a motor vehicle insurance policy in this
21 state may not cancel or increase the premium charged an
22 insured under the policy because the insured completed
23 a driving safety course or a motorcycle operator
24 training course, or had a charge dismissed under this
25 article.

26 Revised Law

27 Art. 45A.358. ADDITIONAL FINES AND FEES RELATING TO COURSE

28 REQUEST. (a) In addition to court costs and fees authorized or
29 imposed by a law of this state and applicable to the offense, the
30 court may:

31 (1) require a defendant requesting a driving safety
32 course or motorcycle operator training course under Article
33 45A.352(a) to pay a reimbursement fee in an amount of not more than
34 \$10 to cover the cost of administering this subchapter; or

35 (2) require a defendant requesting a driving safety
36 course or motorcycle operator training course under Article
37 45A.352(c) to pay a fine set by the court in an amount not to exceed
38 the maximum amount of the fine for the offense committed by the

1 defendant.

2 (b) A defendant who requests but does not take a driving
3 safety course or motorcycle operator training course is not
4 entitled to a refund of the reimbursement fee or fine assessed under
5 Subsection (a).

6 (c) Money collected by a municipal court shall be deposited
7 in the municipal treasury. Money collected by another court shall
8 be deposited in the county treasury of the county in which the court
9 is located. (Code Crim. Proc., Arts. 45.0511(f), (g), (h).)

10 Source Law

11 (f) In addition to court costs and fees
12 authorized or imposed by a law of this state and
13 applicable to the offense, the court may:

14 (1) require a defendant requesting a
15 course under Subsection (b) to pay a reimbursement fee
16 to cover the cost of administering this article in an
17 amount of not more than \$10; or

18 (2) require a defendant requesting a
19 course under Subsection (d) to pay a fine set by the
20 court at an amount not to exceed the maximum amount of
21 the fine for the offense committed by the defendant.

22 (g) A defendant who requests but does not take a
23 course is not entitled to a refund of the reimbursement
24 fee or fine assessed under Subsection (f).

25 (h) Money collected by a municipal court shall
26 be deposited in the municipal treasury. Money
27 collected by another court shall be deposited in the
28 county treasury of the county in which the court is
29 located.

30 Revised Law

31 Art. 45A.359. DRIVING RECORD RETRIEVAL AND RELATED FEE.

32 (a) In this article, "state electronic Internet portal" has the
33 meaning assigned by Section 2054.003, Government Code.

34 (b) As an alternative to receiving the defendant's driving
35 record under Article 45A.356(a)(2), the judge, at the time the
36 defendant requests a driving safety course or motorcycle operator
37 training course dismissal under this subchapter, may:

38 (1) require the defendant to pay a reimbursement fee
39 in an amount equal to the sum of the amount of:

40 (A) the fee established by Section 521.048,
41 Transportation Code; and

42 (B) the state electronic Internet portal fee; and

43 (2) use the state electronic Internet portal to

1 request that the Department of Public Safety provide the judge with
2 a copy of the defendant's driving record showing the information
3 described by Section 521.047(b), Transportation Code.

4 (c) As soon as practicable, the Department of Public Safety
5 shall use the state electronic Internet portal to provide the judge
6 with the requested copy of the defendant's driving record.

7 (d) The reimbursement fee authorized by Subsection (b) is in
8 addition to any other fee required under this subchapter.

9 (e) The custodian of a municipal or county treasury who
10 receives reimbursement fees collected under this article shall keep
11 a record of the fees and, without deduction or proration, forward
12 the fees to the comptroller with and in the manner required for
13 other fees and costs received in connection with criminal cases.

14 (f) The comptroller shall credit fees collected under
15 Subsection (e) to the Department of Public Safety. (Code Crim.
16 Proc., Art. 45.0511(c-1) (part).)

17 Source Law

18 (c-1) In this subsection, "state electronic
19 Internet portal" has the meaning assigned by Section
20 2054.003, Government Code. As an alternative to
21 receiving the defendant's driving record under
22 Subsection (c)(2), the judge, at the time the
23 defendant requests a driving safety course or
24 motorcycle operator training course dismissal under
25 this article, may require the defendant to pay a
26 reimbursement fee in an amount equal to the sum of the
27 amount of the fee established by Section 521.048,
28 Transportation Code, and the state electronic Internet
29 portal fee and, using the state electronic Internet
30 portal, may request the Texas Department of Public
31 Safety to provide the judge with a copy of the
32 defendant's driving record that shows the information
33 described by Section 521.047(b), Transportation Code.
34 As soon as practicable and using the state electronic
35 Internet portal, the Texas Department of Public Safety
36 shall provide the judge with the requested copy of the
37 defendant's driving record. The reimbursement fee
38 authorized by this subsection is in addition to any
39 other fee required under this article. . . . The
40 custodian of a municipal or county treasury who
41 receives reimbursement fees collected under this
42 subsection shall keep a record of the fees and, without
43 deduction or proration, forward the fees to the
44 comptroller, with and in the manner required for other
45 fees and costs received in connection with criminal
46 cases. The comptroller shall credit fees received
47 under this subsection to the Texas Department of
48 Public Safety.

1 Revisor's Note

2 (1) Article 45.0511(c-1), Code of Criminal
3 Procedure, refers to the reimbursement fee authorized
4 by "this subsection." The relevant portion of
5 Subsection (c-1) is revised in this article as
6 Subsection (b), and the revised law is drafted
7 accordingly.

8 (2) Article 45.0511(c-1), Code of Criminal
9 Procedure, refers to fees collected under "this
10 subsection." The relevant portions of Subsection
11 (c-1) are revised in this article, and the revised law
12 is drafted accordingly.

13 (3) Article 45.0511(c-1), Code of Criminal
14 Procedure, requires the comptroller to credit fees
15 collected under "this subsection." The relevant
16 portion of Subsection (c-1) is revised in this article
17 as Subsection (e), and the revised law is drafted
18 accordingly.

19 SUBCHAPTER I. OTHER DISMISSALS

20 Revised Law

21 Art. 45A.401. DISMISSAL OF MISDEMEANOR CHARGE ON COMPLETION
22 OF TEEN COURT PROGRAM. (a) This article applies only to a
23 defendant who is:

24 (1) younger than 18 years of age; or

25 (2) enrolled full time in an accredited secondary
26 school in a program leading toward a high school diploma.

27 (b) A justice or municipal court may defer proceedings
28 against a defendant described by Subsection (a) for a period not to
29 exceed 180 days if the defendant:

30 (1) is charged with an offense that the court has
31 jurisdiction of under Article 4.11 or 4.14;

32 (2) with the defendant's parent, guardian, or managing
33 conservator present, pleads nolo contendere or guilty to the
34 offense in open court;

1 (3) presents to the court an oral or written request to
2 attend a teen court program or is recommended to attend the program
3 by a school employee under Section 37.146, Education Code; and

4 (4) has not successfully completed a teen court
5 program in the year preceding the date that the alleged offense
6 occurred.

7 (c) The court must approve the teen court program.

8 (d) A defendant for whom proceedings are deferred under
9 Subsection (b) must complete the teen court program not later than
10 the earlier of:

11 (1) the 90th day after the date the teen court hearing
12 to determine punishment is held; or

13 (2) the last day of the deferral period.

14 (e) The justice or municipal court shall dismiss the charge
15 at the time the defendant presents satisfactory evidence that the
16 defendant has successfully completed the teen court program.

17 (f) A charge dismissed under this article may not be part of
18 the defendant's criminal record or driving record or used for any
19 purpose, except that if the charge was for a traffic offense, the
20 court shall report to the Department of Public Safety the fact that
21 the defendant successfully completed the teen court program and the
22 date of completion for inclusion in the defendant's driving record.

23 (g) The justice or municipal court may require a defendant
24 who requests a teen court program to pay a reimbursement fee in an
25 amount not to exceed \$10 that is set by the court to cover the costs
26 of administering this article. Reimbursement fees collected by a
27 municipal court shall be deposited in the municipal treasury, and
28 reimbursement fees collected by a justice court shall be deposited
29 in the county treasury of the county in which the court is located.

30 (h) A defendant who requests a teen court program and fails
31 to complete the program is not entitled to a refund of the
32 reimbursement fee under Subsection (g).

33 (i) A court may transfer a case in which proceedings have
34 been deferred under this article to a court in another county if

1 that court consents to the transfer and has jurisdiction over the
2 case.

3 (j) In addition to the reimbursement fee authorized by
4 Subsection (g), the court may require a defendant who requests a
5 teen court program to pay a \$10 reimbursement fee to cover the
6 program's cost for performing duties under this article. The court
7 shall pay the fee to the teen court program, and the teen court
8 program must account to the court for the receipt and disbursal of
9 the fee.

10 (k) A defendant who pays a fee under Subsection (j) is not
11 entitled to a refund of the fee, regardless of whether the defendant
12 successfully completes the teen court program.

13 (l) A justice or municipal court may exempt a defendant for
14 whom proceedings are deferred under this article from the
15 requirement to pay a court cost or fee imposed by another statute.

16 (m) Notwithstanding Subsection (g) or (j), a justice or
17 municipal court that is located in the Texas-Louisiana border
18 region, as defined by Section 2056.002, Government Code, may charge
19 a reimbursement fee of \$20 under those subsections. (Code Crim.
20 Proc., Art. 45.052.)

21 Source Law

22 Art. 45.052. DISMISSAL OF MISDEMEANOR CHARGE ON
23 COMPLETION OF TEEN COURT PROGRAM. (a) A justice or
24 municipal court may defer proceedings against a
25 defendant who is under the age of 18 or enrolled full
26 time in an accredited secondary school in a program
27 leading toward a high school diploma for not more than
28 180 days if the defendant:

29 (1) is charged with an offense that the
30 court has jurisdiction of under Article 4.11 or 4.14;

31 (2) pleads nolo contendere or guilty to
32 the offense in open court with the defendant's parent,
33 guardian, or managing conservator present;

34 (3) presents to the court an oral or
35 written request to attend a teen court program or is
36 recommended to attend the program by a school employee
37 under Section 37.146, Education Code; and

38 (4) has not successfully completed a teen
39 court program in the year preceding the date that the
40 alleged offense occurred.

41 (b) The teen court program must be approved by
42 the court.

43 (c) A defendant for whom proceedings are
44 deferred under Subsection (a) shall complete the teen
45 court program not later than the 90th day after the
46 date the teen court hearing to determine punishment is

1 held or the last day of the deferral period, whichever
2 date is earlier. The justice or municipal court shall
3 dismiss the charge at the time the defendant presents
4 satisfactory evidence that the defendant has
5 successfully completed the teen court program.

6 (d) A charge dismissed under this article may
7 not be part of the defendant's criminal record or
8 driving record or used for any purpose. However, if
9 the charge was for a traffic offense, the court shall
10 report to the Department of Public Safety that the
11 defendant successfully completed the teen court
12 program and the date of completion for inclusion in the
13 defendant's driving record.

14 (e) The justice or municipal court may require a
15 person who requests a teen court program to pay a
16 reimbursement fee not to exceed \$10 that is set by the
17 court to cover the costs of administering this
18 article. Reimbursement fees collected by a municipal
19 court shall be deposited in the municipal treasury.
20 Reimbursement fees collected by a justice court shall
21 be deposited in the county treasury of the county in
22 which the court is located. A person who requests a
23 teen court program and fails to complete the program is
24 not entitled to a refund of the fee.

25 (f) A court may transfer a case in which
26 proceedings have been deferred under this section to a
27 court in another county if the court to which the case
28 is transferred consents. A case may not be transferred
29 unless it is within the jurisdiction of the court to
30 which it is transferred.

31 (g) In addition to the reimbursement fee
32 authorized by Subsection (e), the court may require a
33 child who requests a teen court program to pay a \$10
34 reimbursement fee to cover the cost to the teen court
35 for performing its duties under this article. The
36 court shall pay the fee to the teen court program, and
37 the teen court program must account to the court for
38 the receipt and disbursement of the fee. A child who pays
39 a fee under this subsection is not entitled to a refund
40 of the fee, regardless of whether the child
41 successfully completes the teen court program.

42 (h) A justice or municipal court may exempt a
43 defendant for whom proceedings are deferred under this
44 article from the requirement to pay a court cost or fee
45 that is imposed by another statute.

46 (i) Notwithstanding Subsection (e) or (g), a
47 justice or municipal court that is located in the
48 Texas-Louisiana border region, as defined by Section
49 2056.002, Government Code, may charge a reimbursement
50 fee of \$20 under those subsections.

51 Revisor's Note

52 (1) Article 45.052(e), Code of Criminal
53 Procedure, refers to a "person" who requests a teen
54 court program. Article 45.052(g), Code of Criminal
55 Procedure, refers to a "child" who requests a teen
56 court program or pays a fee related to the program.
57 For consistency in terminology within this article,
58 the revised law substitutes "defendant" for "person"
59 and "child" because, in this context, the terms are

1 synonymous and "defendant" is the more commonly used
2 term in this article.

3 (2) Article 45.052(f), Code of Criminal
4 Procedure, refers to a case in which proceedings have
5 been deferred under "this section." The quoted
6 language is a drafting error because Chapter 45, Code
7 of Criminal Procedure, is organized in articles rather
8 than sections. The revised law is drafted
9 accordingly.

10 (3) Article 45.052(g), Code of Criminal
11 Procedure, refers to a child who pays a fee under "this
12 subsection." The relevant portion of Subsection (g)
13 is revised in this article as Subsection (j), and the
14 revised law is drafted accordingly.

15 (4) Article 45.052(i), Code of Criminal
16 Procedure, provides that "[n]otwithstanding
17 Subsection (e) or (g)," certain courts may charge a
18 reimbursement fee of \$20 under those subsections.
19 Article 45.052(e) is revised in this article as
20 Subsections (g) and (h) and Article 45.052(g) is
21 revised in this article as Subsections (j) and (k).
22 Because the relevant portions of Articles 45.052(e)
23 and (g) relating to the amount of the reimbursement fee
24 are revised in this article as Subsections (g) and (j),
25 it is unnecessary to include a cross-reference to
26 Subsection (h) or (k) of this article. The revised law
27 is drafted accordingly.

28 Revised Law

29 Art. 45A.402. DISMISSAL OF COMPLAINT ON COMMITMENT OF
30 PERSON WITH CHEMICAL DEPENDENCY. (a) On a plea of guilty or nolo
31 contendere by a defendant or on a finding of guilt in a misdemeanor
32 case punishable by fine only, a justice or municipal court may defer
33 further proceedings for a 90-day period without entering an
34 adjudication of guilt if:

1 (1) the court finds that the offense resulted from or
2 was related to the defendant's chemical dependency; and

3 (2) an application for court-ordered treatment of the
4 defendant is filed in accordance with Chapter 462, Health and
5 Safety Code.

6 (b) At the end of the deferral period, the justice or
7 municipal court shall dismiss the complaint if satisfactory
8 evidence is presented that the defendant was committed for and
9 completed court-ordered treatment in accordance with Chapter 462,
10 Health and Safety Code. If a complaint is dismissed under this
11 subsection, there is not a final conviction and the complaint may
12 not be used against the person for any purpose. The docket must
13 clearly note that the court dismissed the complaint and that there
14 is not a final conviction. Records relating to a complaint
15 dismissed under this subsection may be expunged under Subchapter A,
16 B, or C, Chapter 55A.

17 (c) If at the conclusion of the deferral period satisfactory
18 evidence described by Subsection (b) is not presented, the justice
19 or municipal court may impose the fine assessed or a lesser fine.
20 The imposition of the fine constitutes a final conviction of the
21 defendant. (Code Crim. Proc., Art. 45.053.)

22 Source Law

23 Art. 45.053. DISMISSAL OF MISDEMEANOR CHARGE ON
24 COMMITMENT OF CHEMICALLY DEPENDENT PERSON. (a) On a
25 plea of guilty or nolo contendere by a defendant or on
26 a finding of guilt in a misdemeanor case punishable by
27 a fine only, a justice or municipal court may defer
28 further proceedings for 90 days without entering an
29 adjudication of guilt if:

30 (1) the court finds that the offense
31 resulted from or was related to the defendant's
32 chemical dependency; and

33 (2) an application for court-ordered
34 treatment of the defendant is filed in accordance with
35 Chapter 462, Health and Safety Code.

36 (b) At the end of the deferral period, the
37 justice or municipal court shall dismiss the charge if
38 satisfactory evidence is presented that the defendant
39 was committed for and completed court-ordered
40 treatment in accordance with Chapter 462, Health and
41 Safety Code, and it shall be clearly noted in the
42 docket that the complaint is dismissed and that there
43 is not a final conviction.

44 (c) If at the conclusion of the deferral period
45 satisfactory evidence that the defendant was committed

1 for and completed court-ordered treatment in
2 accordance with Chapter 462, Health and Safety Code,
3 is not presented, the justice or municipal court may
4 impose the fine assessed or impose a lesser fine. The
5 imposition of a fine constitutes a final conviction of
6 the defendant.

7 (d) Records relating to a complaint dismissed
8 under this article may be expunged under Article 55.01
9 of this code. If a complaint is dismissed under this
10 article, there is not a final conviction and the
11 complaint may not be used against the person for any
12 purpose.

13 Revisor's Note

14 (1) Article 45.053(d), Code of Criminal
15 Procedure, refers to a complaint dismissed "under this
16 article." The relevant portion of Article 45.053 is
17 revised as Subsection (b) of this article, and the
18 revised law is drafted accordingly.

19 (2) Article 45.053(d), Code of Criminal
20 Procedure, provides that certain dismissed complaints
21 may be expunged under Article 55.01 of that code. The
22 relevant portion of Article 55.01 is revised in
23 Subchapters A, B, and C, Chapter 55A, Code of Criminal
24 Procedure, and the revised law is drafted accordingly.

25 Revised Law

26 Art. 45A.403. DISMISSAL OF PARENT CONTRIBUTING TO
27 NONATTENDANCE CHARGE. Notwithstanding any other law, a county,
28 justice, or municipal court may dismiss a charge against a
29 defendant alleging the defendant committed an offense under Section
30 25.093, Education Code, if the court finds that a dismissal would be
31 in the interest of justice because:

32 (1) there is a low likelihood of recidivism by the
33 defendant; or

34 (2) sufficient justification exists for the failure of
35 the defendant's child to attend school. (Code Crim. Proc., Art.
36 45.0531.)

37 Source Law

38 Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING
39 TO NONATTENDANCE CHARGE. Notwithstanding any other
40 law, a county, justice, or municipal court, at the
41 court's discretion, may dismiss a charge against a
42 defendant alleging the defendant committed an offense

1 under Section 25.093, Education Code, if the court
2 finds that a dismissal would be in the interest of
3 justice because:

- 4 (1) there is a low likelihood of
5 recidivism by the defendant; or
6 (2) sufficient justification exists for
7 the failure to attend school.

8 Revisor's Note

9 Article 45.0531, Code of Criminal Procedure,
10 provides that a court may dismiss certain charges "at
11 the court's discretion." The revised law omits the
12 quoted language as unnecessary because, in this
13 context, it is included within the meaning of "may."

14 SUBCHAPTER J. CASES INVOLVING JUVENILES

15 Revised Law

16 Art. 45A.451. JUVENILE CASE MANAGERS. (a) On approval of
17 the commissioners court, governing body of a municipality, school
18 district board of trustees, juvenile board, or other appropriate
19 authority, a county court, justice court, municipal court, school
20 district, juvenile probation department, or other appropriate
21 governmental entity may:

22 (1) employ a case manager to provide services:

23 (A) in cases involving juvenile offenders who are
24 before a court consistent with the court's statutory powers; or

25 (B) to a juvenile who is referred to a court by a
26 school administrator or designee for misconduct that would
27 otherwise be within the court's statutory powers before a case is
28 filed, with the consent of the juvenile and the juvenile's parents
29 or guardians;

30 (2) employ one or more juvenile case managers who:

31 (A) shall assist the court in administering the
32 court's juvenile docket and in supervising the court's orders in
33 juvenile cases; and

34 (B) may provide:

35 (i) prevention services to a child
36 considered at risk of entering the juvenile justice system; and

37 (ii) intervention services to a juvenile

1 engaged in misconduct, excluding traffic offenses, if a case has
2 not yet been filed with respect to the misconduct; or

3 (3) agree in accordance with Chapter 791, Government
4 Code, with any appropriate governmental entity to jointly employ a
5 case manager or to jointly contribute to the costs of a case manager
6 employed by one governmental entity to provide services described
7 by Subdivisions (1) and (2).

8 (a-1) A county or justice court on approval of the
9 commissioners court or a municipality or municipal court on
10 approval of the governing body of the municipality may employ one or
11 more juvenile case managers who:

12 (1) shall assist the court in administering the
13 court's juvenile docket and in supervising the court's orders in
14 juvenile cases; and

15 (2) may provide:

16 (A) prevention services to a child considered at
17 risk of entering the juvenile justice system; and

18 (B) intervention services to a juvenile engaged
19 in misconduct, excluding traffic offenses, if a case has not yet
20 been filed with respect to the misconduct.

21 (b) A local entity may apply or more than one local entity
22 may jointly apply to the criminal justice division of the
23 governor's office for reimbursement of all or part of the costs of
24 employing one or more juvenile case managers from funds
25 appropriated to the governor's office or otherwise available for
26 that purpose.

27 (c) To be eligible for reimbursement under Subsection (b),
28 the entity applying must present to the governor's office a
29 comprehensive plan to reduce juvenile offenses in the entity's
30 jurisdiction. The plan must address the role of the case manager in
31 that effort.

32 (d) An entity that jointly employs a case manager under
33 Subsection (a)(3) employs a juvenile case manager for purposes of
34 Chapter 102.

1 (e) The court or governing body may pay, from the local
2 truancy prevention and diversion fund established under Section
3 134.156, Local Government Code:

4 (1) the salary and benefits of a juvenile case
5 manager; and

6 (2) the costs of training, travel, office supplies,
7 and other necessary expenses relating to the position of the
8 juvenile case manager.

9 (f) A juvenile case manager employed under Subsection (a-1)
10 shall give priority to cases brought under Section 25.093,
11 Education Code.

12 (g) The governing body of the employing governmental entity
13 under Subsection (a) shall adopt reasonable rules for juvenile case
14 managers that provide for:

15 (1) a code of ethics and the enforcement of the code of
16 ethics;

17 (2) appropriate educational preservice and in-service
18 training standards for juvenile case managers; and

19 (3) training in:

20 (A) the role of the juvenile case manager;

21 (B) case planning and management;

22 (C) applicable procedural and substantive law;

23 (D) courtroom proceedings and presentation;

24 (E) services to at-risk youth under Subchapter D,
25 Chapter 264, Family Code;

26 (F) local programs and services for juveniles and
27 methods by which juveniles may access those programs and services;
28 and

29 (G) detecting and preventing abuse,
30 exploitation, and neglect of juveniles.

31 (h) The employing court or governmental entity under this
32 article shall implement the rules adopted under Subsection (g).

33 (i) The commissioners court or governing body of the
34 municipality that administers a local truancy prevention and

1 diversion fund under Section 134.156, Local Government Code, shall
2 require periodic review of juvenile case managers to ensure the
3 implementation of the rules adopted under Subsection (g).

4 (j) The juvenile case manager shall timely report to the
5 judge who signed the applicable order or judgment and, on request,
6 to the judge assigned to the case or the presiding judge any
7 information or recommendations relevant to assisting the judge in
8 making decisions that are in the best interest of the child.

9 (k) The judge who is assigned to the case shall consult with
10 the juvenile case manager who is supervising the case regarding:

11 (1) the child's home environment;

12 (2) the child's developmental, psychological, and
13 educational status;

14 (3) the child's previous interaction with the justice
15 system; and

16 (4) any sanctions available to the court that would be
17 in the best interest of the child.

18 (1) Subsections (j) and (k) do not apply to:

19 (1) a part-time judge; or

20 (2) a county judge of a county court that has one or
21 more appointed full-time magistrates under Section 54.1172,
22 Government Code. (Code Crim. Proc., Art. 45.056.)

23 Source Law

24 Art. 45.056. JUVENILE CASE MANAGERS. (a) On
25 approval of the commissioners court, city council,
26 school district board of trustees, juvenile board, or
27 other appropriate authority, a county court, justice
28 court, municipal court, school district, juvenile
29 probation department, or other appropriate
30 governmental entity may:

31 (1) employ a case manager to provide
32 services in cases involving juvenile offenders who are
33 before a court consistent with the court's statutory
34 powers or referred to a court by a school administrator
35 or designee for misconduct that would otherwise be
36 within the court's statutory powers prior to a case
37 being filed, with the consent of the juvenile and the
38 juvenile's parents or guardians;

39 (2) employ one or more juvenile case
40 managers who:

41 (A) shall assist the court in
42 administering the court's juvenile docket and in
43 supervising the court's orders in juvenile cases; and

44 (B) may provide:

1 (i) prevention services to a
2 child considered at risk of entering the juvenile
3 justice system; and

4 (ii) intervention services to
5 juveniles engaged in misconduct before cases are
6 filed, excluding traffic offenses; or

7 (3) agree in accordance with Chapter 791,
8 Government Code, with any appropriate governmental
9 entity to jointly employ a case manager or to jointly
10 contribute to the costs of a case manager employed by
11 one governmental entity to provide services described
12 by Subdivisions (1) and (2).

13 (b) A local entity may apply or more than one
14 local entity may jointly apply to the criminal justice
15 division of the governor's office for reimbursement of
16 all or part of the costs of employing one or more
17 juvenile case managers from funds appropriated to the
18 governor's office or otherwise available for that
19 purpose. To be eligible for reimbursement, the entity
20 applying must present to the governor's office a
21 comprehensive plan to reduce juvenile crimes in the
22 entity's jurisdiction that addresses the role of the
23 case manager in that effort.

24 (c) [as amended Acts 83rd Leg., R.S., Ch. 1213]
25 An entity that jointly employs a case manager under
26 Subsection (a)(3) employs a juvenile case manager for
27 purposes of Chapter 102 of this code and Chapter 102,
28 Government Code.

29 (c) [as amended Acts 83rd Leg., R.S., Ch. 1407]
30 A county or justice court on approval of the
31 commissioners court or a municipality or municipal
32 court on approval of the city council may employ one or
33 more juvenile case managers who:

34 (1) shall assist the court in
35 administering the court's juvenile docket and in
36 supervising its court orders in juvenile cases; and

37 (2) may provide:

38 (A) prevention services to a child
39 considered at-risk of entering the juvenile justice
40 system; and

41 (B) intervention services to
42 juveniles engaged in misconduct prior to cases being
43 filed, excluding traffic offenses.

44 (d) The court or governing body may pay the
45 salary and benefits of a juvenile case manager and the
46 costs of training, travel, office supplies, and other
47 necessary expenses relating to the position of the
48 juvenile case manager from the local truancy
49 prevention and diversion fund established under
50 Section 134.156, Local Government Code.

51 (e) A juvenile case manager employed under
52 Subsection (c) shall give priority to cases brought
53 under Sections 25.093 and 25.094, Education Code.

54 (f) The governing body of the employing
55 governmental entity under Subsection (a) shall adopt
56 reasonable rules for juvenile case managers that
57 provide:

58 (1) a code of ethics, and for the
59 enforcement of the code of ethics;

60 (2) appropriate educational preservice
61 and in-service training standards for juvenile case
62 managers; and

63 (3) training in:

64 (A) the role of the juvenile case
65 manager;

66 (B) case planning and management;

67 (C) applicable procedural and
68 substantive law;

1 (D) courtroom proceedings and
2 presentation;

3 (E) services to at-risk youth under
4 Subchapter D, Chapter 264, Family Code;

5 (F) local programs and services for
6 juveniles and methods by which juveniles may access
7 those programs and services; and

8 (G) detecting and preventing abuse,
9 exploitation, and neglect of juveniles.

10 (g) The employing court or governmental entity
11 under this article shall implement the rules adopted
12 under Subsection (f).

13 (h) The commissioners court or governing body of
14 the municipality that administers a local truancy
15 prevention and diversion fund under Section 134.156,
16 Local Government Code, shall require periodic review
17 of juvenile case managers to ensure the implementation
18 of the rules adopted under Subsection (f).

19 (i) The juvenile case manager shall timely
20 report to the judge who signed the order or judgment
21 and, on request, to the judge assigned to the case or
22 the presiding judge any information or recommendations
23 relevant to assisting the judge in making decisions
24 that are in the best interest of the child.

25 (j) The judge who is assigned to the case shall
26 consult with the juvenile case manager who is
27 supervising the case regarding:

28 (1) the child's home environment;

29 (2) the child's developmental,
30 psychological, and educational status;

31 (3) the child's previous interaction with
32 the justice system; and

33 (4) any sanctions available to the court
34 that would be in the best interest of the child.

35 (k) Subsections (i) and (j) do not apply to:

36 (1) a part-time judge; or

37 (2) a county judge of a county court that
38 has one or more appointed full-time magistrates under
39 Section 54.1172, Government Code.

40 Revisor's Note

41 (1) Article 45.056(c), Code of Criminal
42 Procedure, as amended by Chapter 1213 (S.B. 1419),
43 Acts of the 83rd Legislature, Regular Session, 2013,
44 states that an entity that jointly employs a case
45 manager under certain circumstances employs a case
46 manager for purposes of "Chapter 102, Government
47 Code." The revised law omits the reference to Chapter
48 102, Government Code, because it was repealed by
49 Chapters 915 (H.B. 3607) and 472 (S.B. 41), Acts of the
50 87th Legislature, Regular Session, 2021.

51 (2) Article 45.056(e), Code of Criminal
52 Procedure, states that a juvenile case manager
53 employed "under Subsection (c)" shall give priority to

1 certain cases. Subsection (c) was amended by Chapters
2 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of the 83rd
3 Legislature, Regular Session, 2013. Subsection (c) as
4 amended by Chapter 1407 contains the relevant
5 provision relating to the authority to employ juvenile
6 case managers and is revised in this article as
7 Subsection (a-1). The revised law is drafted
8 accordingly.

9 (3) Article 45.056(e), Code of Criminal
10 Procedure, states that certain juvenile case managers
11 shall give priority to cases "brought under Sections
12 25.093 and 25.094, Education Code." The revised law
13 omits the reference to Section 25.094, Education Code,
14 because it was repealed by Chapter 935 (H.B. 2398),
15 Acts of the 84th Legislature, Regular Session, 2015.

16 Revised Law

17 Art. 45A.452. PLEA; APPEARANCE BY DEFENDANT AND PARENT.

18 (a) This article applies to a defendant who has not had the
19 disabilities of minority removed and has been:

20 (1) charged with an offense other than an offense
21 under Section 43.261, Penal Code, if the defendant is younger than
22 17 years of age; or

23 (2) charged with an offense under Section 43.261,
24 Penal Code, if the defendant is younger than 18 years of age.

25 (b) The judge or justice shall:

26 (1) take the defendant's plea in open court; and

27 (2) issue a summons to compel the defendant's parent,
28 guardian, or managing conservator to be present during:

29 (A) the taking of the defendant's plea; and

30 (B) all other proceedings relating to the case.

31 (c) If the court is unable to secure the appearance of the
32 defendant's parent, guardian, or managing conservator by issuing a
33 summons, the court may, without the defendant's parent, guardian,
34 or managing conservator present, take the defendant's plea and

1 proceed against the defendant.

2 (d) If the defendant resides in a county other than the
3 county in which the alleged offense occurred, the defendant may,
4 with approval of the judge of the court of original jurisdiction,
5 enter a plea, including a plea under Article 45A.401, before a judge
6 in the county in which the defendant resides.

7 (e) A justice or municipal court shall endorse on the
8 summons issued to a parent an order to appear personally at a
9 hearing with the defendant. The summons must include a warning that
10 the failure of the parent to appear is a Class C misdemeanor and may
11 result in arrest. (Code Crim. Proc., Art. 45.0215.)

12 Source Law

13 Art. 45.0215. PLEA BY MINOR AND APPEARANCE OF
14 PARENT. (a) This article applies to a defendant who
15 has not had the disabilities of minority removed and
16 has been:

17 (1) charged with an offense other than an
18 offense under Section 43.261, Penal Code, if the
19 defendant is younger than 17 years of age; or

20 (2) charged with an offense under Section
21 43.261, Penal Code, if the defendant is younger than 18
22 years of age.

23 (a-1) The judge or justice:

24 (1) must take the defendant's plea in open
25 court; and

26 (2) shall issue a summons to compel the
27 defendant's parent, guardian, or managing conservator
28 to be present during:

29 (A) the taking of the defendant's
30 plea; and

31 (B) all other proceedings relating to
32 the case.

33 (b) If the court is unable to secure the
34 appearance of the defendant's parent, guardian, or
35 managing conservator by issuance of a summons, the
36 court may, without the defendant's parent, guardian,
37 or managing conservator present, take the defendant's
38 plea and proceed against the defendant.

39 (c) If the defendant resides in a county other
40 than the county in which the alleged offense occurred,
41 the defendant may, with leave of the judge of the court
42 of original jurisdiction, enter the plea, including a
43 plea under Article 45.052, before a judge in the county
44 in which the defendant resides.

45 (d) A justice or municipal court shall endorse
46 on the summons issued to a parent an order to appear
47 personally at a hearing with the child. The summons
48 must include a warning that the failure of the parent
49 to appear may result in arrest and is a Class C
50 misdemeanor.

51 Revisor's Note

52 Article 45.0215(d), Code of Criminal Procedure,

1 states that a court shall endorse an order to appear
2 personally at a hearing with the "child." For
3 consistency in terminology in this article, the
4 revised law substitutes "defendant" for "child"
5 because, in this context, the terms are synonymous and
6 "defendant" is the more commonly used term in this
7 article.

8 Revised Law

9 Art. 45A.453. CHILD TAKEN INTO CUSTODY. (a) In this
10 article, "child" means a person who is:

11 (1) at least 10 years of age and younger than 17 years
12 of age; and

13 (2) charged with or convicted of an offense that a
14 justice or municipal court has jurisdiction of under Article 4.11
15 or 4.14.

16 (b) A child may be released to the child's parent, guardian,
17 custodian, or other responsible adult as provided by Section
18 52.02(a)(1), Family Code, if the child is taken into custody for an
19 offense that a justice or municipal court has jurisdiction of under
20 Article 4.11 or 4.14.

21 (c) A child described by Subsection (b) must be taken only
22 to a place previously designated by the head of the law enforcement
23 agency with custody of the child as an appropriate place of
24 nonsecure custody for children unless the child:

25 (1) is released under Section 52.02(a)(1), Family
26 Code; or

27 (2) is taken before a justice or municipal court.

28 (d) A place of nonsecure custody for children must be an
29 unlocked, multipurpose area, such as:

30 (1) a lobby, office, or interrogation room, if the
31 area is not designated, set aside, or used as a secure detention
32 area and is not part of a secure detention area; or

33 (2) a juvenile processing office designated under
34 Section 52.025, Family Code, if the area is not locked when the area

1 is used as a place of nonsecure custody.

2 (e) The following procedures shall be followed in a place of
3 nonsecure custody for children:

4 (1) a child may not be secured physically to a cuffing
5 rail, chair, desk, or other stationary object;

6 (2) a child may be held in the nonsecure facility only
7 for the period necessary to complete:

8 (A) identification;

9 (B) investigation;

10 (C) processing;

11 (D) release to a parent, guardian, custodian, or
12 other responsible adult; or

13 (E) the arranging of transportation to the
14 appropriate juvenile court, juvenile detention facility, secure
15 detention facility, justice court, or municipal court;

16 (3) residential use of the area is prohibited; and

17 (4) a law enforcement officer or facility staff person
18 shall provide continuous visual supervision of a child while the
19 child is in nonsecure custody.

20 (f) Notwithstanding any other provision of this article, a
21 child may not be detained in a place of nonsecure custody for a
22 period of more than six hours.

23 (g) A child taken into custody for an offense that a justice
24 or municipal court has jurisdiction of under Article 4.11 or 4.14
25 may be presented or detained in a detention facility designated by
26 the juvenile board under Section 52.02(a)(3), Family Code, only if:

27 (1) the child's case is transferred to the juvenile
28 court by a justice or municipal court under Section 51.08(b),
29 Family Code; or

30 (2) the child is referred to the juvenile court by a
31 justice or municipal court for contempt of court under Article
32 45A.461.

33 (h) Except as provided by Subsection (i) and Section
34 37.143(a), Education Code, for a traffic offense or an offense

1 punishable by fine only, a law enforcement officer may issue a
2 citation as provided by Article 14.06 instead of taking a child into
3 custody.

4 (i) A law enforcement officer may issue a citation as
5 provided by Article 14.06 instead of taking a child into custody for
6 conduct constituting a violation of Section 49.02, Penal Code, only
7 if the officer releases the child to the child's parent, guardian,
8 custodian, or other responsible adult. (Code Crim. Proc., Arts.
9 45.058(a), (b), (c), (d), (e), (f), (g), (g-1), (h).)

10 Source Law

11 Art. 45.058. CHILDREN TAKEN INTO CUSTODY. (a)
12 A child may be released to the child's parent,
13 guardian, custodian, or other responsible adult as
14 provided by Section 52.02(a)(1), Family Code, if the
15 child is taken into custody for an offense that a
16 justice or municipal court has jurisdiction of under
17 Article 4.11 or 4.14.

18 (b) A child described by Subsection (a) must be
19 taken only to a place previously designated by the head
20 of the law enforcement agency with custody of the child
21 as an appropriate place of nonsecure custody for
22 children unless the child:

23 (1) is released under Section 52.02(a)(1),
24 Family Code; or

25 (2) is taken before a justice or municipal
26 court.

27 (c) A place of nonsecure custody for children
28 must be an unlocked, multipurpose area. A lobby,
29 office, or interrogation room is suitable if the area
30 is not designated, set aside, or used as a secure
31 detention area and is not part of a secure detention
32 area. A place of nonsecure custody may be a juvenile
33 processing office designated under Section 52.025,
34 Family Code, if the area is not locked when it is used
35 as a place of nonsecure custody.

36 (d) The following procedures shall be followed
37 in a place of nonsecure custody for children:

38 (1) a child may not be secured physically
39 to a cuffing rail, chair, desk, or other stationary
40 object;

41 (2) the child may be held in the nonsecure
42 facility only long enough to accomplish the purpose of
43 identification, investigation, processing, release to
44 parents, or the arranging of transportation to the
45 appropriate juvenile court, juvenile detention
46 facility, secure detention facility, justice court, or
47 municipal court;

48 (3) residential use of the area is
49 prohibited; and

50 (4) the child shall be under continuous
51 visual supervision by a law enforcement officer or
52 facility staff person during the time the child is in
53 nonsecure custody.

54 (e) Notwithstanding any other provision of this
55 article, a child may not, under any circumstances, be
56 detained in a place of nonsecure custody for more than
57 six hours.

1 (f) A child taken into custody for an offense
2 that a justice or municipal court has jurisdiction of
3 under Article 4.11 or 4.14 may be presented or detained
4 in a detention facility designated by the juvenile
5 court under Section 52.02(a)(3), Family Code, only if:

6 (1) the child's non-traffic case is
7 transferred to the juvenile court by a justice or
8 municipal court under Section 51.08(b), Family Code;
9 or

10 (2) the child is referred to the juvenile
11 court by a justice or municipal court for contempt of
12 court under Article 45.050.

13 (g) Except as provided by Subsection (g-1) and
14 Section 37.143(a), Education Code, a law enforcement
15 officer may issue a field release citation as provided
16 by Article 14.06 in place of taking a child into
17 custody for a traffic offense or an offense punishable
18 by fine only.

19 (g-1) A law enforcement officer may issue a
20 field release citation as provided by Article 14.06 in
21 place of taking a child into custody for conduct
22 constituting a violation of Section 49.02, Penal Code,
23 only if the officer releases the child to the child's
24 parent, guardian, custodian, or other responsible
25 adult.

26 (h) In this article, "child" means a person who
27 is:

28 (1) at least 10 years of age and younger
29 than 17 years of age; and

30 (2) charged with or convicted of an
31 offense that a justice or municipal court has
32 jurisdiction of under Article 4.11 or 4.14.

33 Revisor's Note

34 (1) Article 45.058(d)(2), Code of Criminal
35 Procedure, refers to releasing a child in custody to
36 "parents." For consistency in terminology in this
37 article and Section 52.02(a)(1), Family Code, the
38 revised law substitutes for the quoted language "a
39 parent, guardian, custodian, or other responsible
40 adult."

41 (2) Article 45.058(e), Code of Criminal
42 Procedure, provides that notwithstanding any other
43 provision of "this article," a child may not be
44 detained in a place of nonsecure custody for more than
45 six hours. Article 45.058 is revised in this chapter
46 as both this article and Article 45A.454. The relevant
47 portion of Article 45.058 is revised as this article,
48 and the revised law is drafted accordingly.

49 (3) Article 45.058(e), Code of Criminal
50 Procedure, states that a child may not, "under any

1 circumstances," be detained in a place of nonsecure
2 custody for more than six hours. The revised law omits
3 the quoted language as unnecessary because, in this
4 context, it is included within the meaning of "may
5 not."

6 (4) Article 45.058(f), Code of Criminal
7 Procedure, refers to a detention facility designated
8 by the "juvenile court" under Section 52.02(a)(3),
9 Family Code. The quoted language is a drafting error
10 because Section 52.02(a)(3), Family Code, provides
11 that this designation is made by the "juvenile board"
12 rather than the "juvenile court." The revised law is
13 drafted accordingly.

14 (5) Article 45.058(f)(1), Code of Criminal
15 Procedure, refers to the transfer of a "non-traffic
16 case" to certain courts under Section 51.08(b), Family
17 Code. The revised law omits "non-traffic" as
18 unnecessary because Section 51.08(b), Family Code,
19 already excludes cases involving traffic offenses from
20 being transferred under that section.

21 (6) Articles 45.058(g) and (g-1), Code of
22 Criminal Procedure, provide for a law enforcement
23 officer to issue a "field release citation as provided
24 by Article 14.06" for certain offenses or conduct. To
25 conform with the terminology used in Article 14.06,
26 Code of Criminal Procedure, the revised law omits
27 "field release."

28 Revised Law

29 Art. 45A.454. CONDUCT ALLEGED ON SCHOOL PROPERTY. (a) In
30 this article, "child" has the meaning assigned by Article
31 45A.453(a).

32 (b) If a law enforcement officer issues a citation or files
33 a complaint in the manner provided by Article 45A.101(g) for
34 conduct by a child 12 years of age or older that is alleged to have

1 occurred on school property of or on a vehicle owned or operated by
2 a county or independent school district, the officer shall submit
3 to the court:

- 4 (1) the offense report;
- 5 (2) a statement by a witness to the alleged conduct;
- 6 and
- 7 (3) a statement by a victim of the alleged conduct, if
- 8 any.

9 (c) An attorney representing the state may not proceed in a
10 trial of an offense unless the law enforcement officer has complied
11 with the requirements of Subsection (b).

12 (d) Notwithstanding Article 45A.453(h) or (i), a law
13 enforcement officer may not issue a citation or file a complaint in
14 the manner provided by Article 45A.101(g) for conduct by a child
15 younger than 12 years of age that is alleged to have occurred on
16 school property of or on a vehicle owned or operated by a county or
17 independent school district. (Code Crim. Proc., Arts. 45.058(h),
18 (i), (j).)

19 Source Law

20 (h) In this article, "child" means a person who
21 is:

- 22 (1) at least 10 years of age and younger
- 23 than 17 years of age; and
- 24 (2) charged with or convicted of an
- 25 offense that a justice or municipal court has
- 26 jurisdiction of under Article 4.11 or 4.14.

27 (i) If a law enforcement officer issues a
28 citation or files a complaint in the manner provided by
29 Article 45.018 for conduct by a child 12 years of age
30 or older that is alleged to have occurred on school
31 property or on a vehicle owned or operated by a county
32 or independent school district, the officer shall
33 submit to the court the offense report, a statement by
34 a witness to the alleged conduct, and a statement by a
35 victim of the alleged conduct, if any. An attorney
36 representing the state may not proceed in a trial of an
37 offense unless the law enforcement officer complied
38 with the requirements of this subsection.

39 (j) Notwithstanding Subsection (g) or (g-1), a
40 law enforcement officer may not issue a citation or
41 file a complaint in the manner provided by Article
42 45.018 for conduct by a child younger than 12 years of
43 age that is alleged to have occurred on school property
44 or on a vehicle owned or operated by a county or
45 independent school district.

1 Revisor's Note

2 Articles 45.058(i) and (j), Code of Criminal
3 Procedure, refer to a citation or complaint issued or
4 filed by a law enforcement officer in the manner
5 provided by Article 45.018 of that code. The relevant
6 portion of Article 45.018 is revised as Article
7 45A.101(g), and the revised law is drafted
8 accordingly.

9 Revised Law

10 Art. 45A.455. CHILD TAKEN INTO CUSTODY FOR VIOLATION OF
11 JUVENILE CURFEW OR ORDER. (a) In this article, "child" means a
12 person who is younger than 17 years of age.

13 (b) A peace officer taking a child into custody for a
14 violation of a juvenile curfew ordinance of a municipality or order
15 of the commissioners court of a county shall, without unnecessary
16 delay:

17 (1) release the child to the child's parent, guardian,
18 or custodian;

19 (2) take the child before a justice or municipal court
20 to answer the charge; or

21 (3) take the child to a place designated as a juvenile
22 curfew processing office by the head of the law enforcement agency
23 having custody of the child.

24 (c) A juvenile curfew processing office must observe the
25 following procedures:

26 (1) the office must be an unlocked, multipurpose area
27 that is not designated, set aside, or used as a secure detention
28 area or part of a secure detention area;

29 (2) the child may not be secured physically to a
30 cuffing rail, chair, desk, or stationary object;

31 (3) the child may not be held for a period longer than
32 is necessary to complete:

33 (A) identification;

34 (B) investigation;

1 (C) processing;
2 (D) release to a parent, guardian, or custodian;
3 or
4 (E) arrangement of transportation to school or
5 court;

6 (4) the office may not be designated or intended for
7 residential purposes;

8 (5) a peace officer or other individual shall provide
9 continuous visual supervision of a child while the child is in the
10 office; and

11 (6) a child may not be held in the office for a period
12 of more than six hours.

13 (d) A place designated under this article as a juvenile
14 curfew processing office is not subject to the approval of the
15 juvenile board having jurisdiction where the governmental entity is
16 located. (Code Crim. Proc., Art. 45.059; New.)

17 Source Law

18 Art. 45.059. CHILDREN TAKEN INTO CUSTODY FOR
19 VIOLATION OF JUVENILE CURFEW OR ORDER. (a) A peace
20 officer taking into custody a person younger than 17
21 years of age for violation of a juvenile curfew
22 ordinance of a municipality or order of the
23 commissioners court of a county shall, without
24 unnecessary delay:

25 (1) release the person to the person's
26 parent, guardian, or custodian;

27 (2) take the person before a justice or
28 municipal court to answer the charge; or

29 (3) take the person to a place designated
30 as a juvenile curfew processing office by the head of
31 the law enforcement agency having custody of the
32 person.

33 (b) A juvenile curfew processing office must
34 observe the following procedures:

35 (1) the office must be an unlocked,
36 multipurpose area that is not designated, set aside,
37 or used as a secure detention area or part of a secure
38 detention area;

39 (2) the person may not be secured
40 physically to a cuffing rail, chair, desk, or
41 stationary object;

42 (3) the person may not be held longer than
43 necessary to accomplish the purposes of
44 identification, investigation, processing, release to
45 a parent, guardian, or custodian, or arrangement of
46 transportation to school or court;

47 (4) a juvenile curfew processing office
48 may not be designated or intended for residential
49 purposes;

50 (5) the person must be under continuous

1 visual supervision by a peace officer or other person
2 during the time the person is in the juvenile curfew
3 processing office; and

4 (6) a person may not be held in a juvenile
5 curfew processing office for more than six hours.

6 (c) A place designated under this article as a
7 juvenile curfew processing office is not subject to
8 the approval of the juvenile board having jurisdiction
9 where the governmental entity is located.

10 Revisor's Note

11 The revised law adds a definition of "child" for
12 clarity and the convenience of the reader.

13 Revised Law

14 Art. 45A.456. CONTINUING OBLIGATION TO APPEAR FOR
15 UNADJUDICATED CHILD, NOW ADULT; OFFENSE. (a) Except as provided by
16 Articles 45A.453, 45A.454, and 45A.455, an individual may not be
17 taken into secured custody for offenses alleged to have occurred
18 before the individual's 17th birthday.

19 (b) On or after an individual's 17th birthday, if the court
20 has used all available procedures under this chapter to secure the
21 individual's appearance to answer allegations made before the
22 individual's 17th birthday, the court may issue a notice of
23 continuing obligation to appear, by personal service or by mail, to
24 the last known address and residence of the individual. The notice
25 must order the individual to appear at a designated time, place, and
26 date to answer the allegations detailed in the notice.

27 (c) Failure to appear as ordered by the notice under
28 Subsection (b) is a Class C misdemeanor independent of Section
29 38.10, Penal Code, and Section 543.009, Transportation Code.

30 (d) It is an affirmative defense to prosecution under
31 Subsection (c) that the individual was not informed of the
32 individual's obligation under Articles 45A.457(h) and (i) or did
33 not receive notice as required by Subsection (b) of this article.

34 (e) A notice of continuing obligation to appear issued under
35 this article must contain the following statement provided in
36 boldfaced type or capital letters:

37 "WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH
38 BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO

1 MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU
2 ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS
3 CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN
4 ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED
5 FOR YOUR ARREST." (Code Crim. Proc., Art. 45.060.)

6 Source Law

7 Art. 45.060. UNADJUDICATED CHILDREN, NOW
8 ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE.

9 (a) Except as provided by Articles 45.058 and 45.059,
10 an individual may not be taken into secured custody for
11 offenses alleged to have occurred before the
12 individual's 17th birthday.

13 (b) On or after an individual's 17th birthday,
14 if the court has used all available procedures under
15 this chapter to secure the individual's appearance to
16 answer allegations made before the individual's 17th
17 birthday, the court may issue a notice of continuing
18 obligation to appear by personal service or by mail to
19 the last known address and residence of the
20 individual. The notice must order the individual to
21 appear at a designated time, place, and date to answer
22 the allegations detailed in the notice.

23 (c) Failure to appear as ordered by the notice
24 under Subsection (b) is a Class C misdemeanor
25 independent of Section 38.10, Penal Code, and Section
26 543.003, Transportation Code.

27 (d) It is an affirmative defense to prosecution
28 under Subsection (c) that the individual was not
29 informed of the individual's obligation under Articles
30 45.057(h) and (i) or did not receive notice as required
31 by Subsection (b).

32 (e) A notice of continuing obligation to appear
33 issued under this article must contain the following
34 statement provided in boldfaced type or capital
35 letters:

36 "WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR
37 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE
38 AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA
39 IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU
40 HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE.
41 FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN
42 ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT
43 BEING ISSUED FOR YOUR ARREST."

44 Revisor's Note

45 Article 45.060(c), Code of Criminal Procedure,
46 states that failure to appear as ordered under
47 Subsection (b) of that article is an offense
48 "independent of . . . Section 543.003, Transportation
49 Code." The revised law substitutes "Section 543.009"
50 for "Section 543.003" because, while Section 543.003
51 requires a peace officer to issue a notice to appear
52 under certain circumstances, the offense for violating

1 a promise to appear under that subchapter of the
2 Transportation Code is provided by Section 543.009.

3 Revised Law

4 Art. 45A.457. FINDING THAT OFFENSE COMMITTED. (a) In this
5 article:

6 (1) "Child" has the meaning assigned by Article
7 45A.453(a).

8 (2) "Parent" includes a person standing in parental
9 relation, a managing conservator, or a custodian.

10 (3) "Residence" means any place where the child lives
11 or resides for a period of not less than 30 days.

12 (b) On a finding by a justice or municipal court that a child
13 committed an offense that the court has jurisdiction of under
14 Article 4.11 or 4.14, the court has jurisdiction to enter an order:

15 (1) referring the child or the child's parent for
16 services under Section 264.302, Family Code;

17 (2) requiring that the child attend a special program
18 that the court determines to be in the best interest of the child
19 and, if the program involves the expenditure of municipal or county
20 funds, that is approved by the governing body of the municipality or
21 county commissioners court, as applicable, including a program for:

22 (A) rehabilitation;

23 (B) counseling;

24 (C) self-esteem and leadership;

25 (D) work and job skills training;

26 (E) job interviewing and work preparation;

27 (F) self-improvement;

28 (G) parenting;

29 (H) manners;

30 (I) violence avoidance;

31 (J) tutoring;

32 (K) sensitivity training;

33 (L) parental responsibility;

34 (M) community service;

1 (N) restitution;

2 (O) advocacy; or

3 (P) mentoring; or

4 (3) requiring that the child's parent perform any act
5 or refrain from performing any act as the court determines will
6 increase the likelihood that the child will comply with the orders
7 of the court and that is reasonable and necessary for the welfare of
8 the child, including:

9 (A) attend a parenting class or parental
10 responsibility program; and

11 (B) attend the child's school classes or
12 functions.

13 (c) The justice or municipal court may order the parent of a
14 child required to attend a program under Subsection (b) to pay an
15 amount not to exceed \$100 for the costs of the program.

16 (d) A justice or municipal court may require a child or
17 parent required to attend a program, class, or function under this
18 article to submit proof of attendance to the court.

19 (e) A justice or municipal court shall endorse on the
20 summons issued to a parent an order to appear personally at the
21 hearing with the child. The summons must include a warning that the
22 failure of the parent to appear is a Class C misdemeanor and may
23 result in arrest.

24 (f) An order under this article involving a child is
25 enforceable under Article 45A.461.

26 (g) A person commits an offense if the person is a parent who
27 fails to attend a hearing under this article after receiving an
28 order under Subsection (e). An offense under this subsection is a
29 Class C misdemeanor.

30 (h) A child and parent required to appear before the court
31 have an obligation to provide the child's current address and
32 residence to the court in writing. The obligation does not end when
33 the child reaches age 17. On or before the seventh day after the
34 date the child or parent changes residence, the child or parent

1 shall notify the court of the current address in the manner directed
2 by the court. A violation of this subsection is a Class C
3 misdemeanor and may result in arrest. The obligation to provide
4 notice terminates on discharge and satisfaction of the judgment or
5 a final disposition not requiring a finding of guilt.

6 (i) If an appellate court accepts an appeal for a trial de
7 novo, the child and parent shall provide the notice under
8 Subsection (h) to the appellate court.

9 (j) The child and parent are entitled to written notice of
10 their obligation under Subsections (h) and (i), which may be
11 satisfied if a copy of those subsections is delivered to the child
12 and parent by:

13 (1) the court during their initial appearance before
14 the court;

15 (2) a peace officer arresting and releasing a child
16 under Article 45A.453(b) at the time of release; or

17 (3) a peace officer who issues a notice to appear under
18 Section 543.003, Transportation Code, or a citation under Article
19 14.06(b).

20 (k) It is an affirmative defense to prosecution under
21 Subsection (h) that the child and parent were not informed of their
22 obligation under this article.

23 (l) Any order under this article is enforceable by the
24 justice or municipal court by contempt. (Code Crim. Proc., Art.
25 45.057.)

26 Source Law

27 Art. 45.057. OFFENSES COMMITTED BY JUVENILES.

28 (a) In this article:

29 (1) "Child" has the meaning assigned by
30 Article 45.058(h).

31 (2) "Residence" means any place where the
32 child lives or resides for a period of at least 30
33 days.

34 (3) "Parent" includes a person standing in
35 parental relation, a managing conservator, or a
36 custodian.

37 (b) On a finding by a justice or municipal court
38 that a child committed an offense that the court has
39 jurisdiction of under Article 4.11 or 4.14, the court
40 has jurisdiction to enter an order:

41 (1) referring the child or the child's

1 parent for services under Section 264.302, Family
2 Code;

3 (2) requiring that the child attend a
4 special program that the court determines to be in the
5 best interest of the child and, if the program involves
6 the expenditure of municipal or county funds, that is
7 approved by the governing body of the municipality or
8 county commissioners court, as applicable, including a
9 rehabilitation, counseling, self-esteem and
10 leadership, work and job skills training, job
11 interviewing and work preparation, self-improvement,
12 parenting, manners, violence avoidance, tutoring,
13 sensitivity training, parental responsibility,
14 community service, restitution, advocacy, or
15 mentoring program; or

16 (3) requiring that the child's parent do
17 any act or refrain from doing any act that the court
18 determines will increase the likelihood that the child
19 will comply with the orders of the court and that is
20 reasonable and necessary for the welfare of the child,
21 including:

22 (A) attend a parenting class or
23 parental responsibility program; and

24 (B) attend the child's school classes
25 or functions.

26 (c) The justice or municipal court may order the
27 parent, managing conservator, or guardian of a child
28 required to attend a program under Subsection (b) to
29 pay an amount not greater than \$100 to pay for the
30 costs of the program.

31 (d) A justice or municipal court may require a
32 child, parent, managing conservator, or guardian
33 required to attend a program, class, or function under
34 this article to submit proof of attendance to the
35 court.

36 (e) A justice or municipal court shall endorse
37 on the summons issued to a parent an order to appear
38 personally at the hearing with the child. The summons
39 must include a warning that the failure of the parent
40 to appear may result in arrest and is a Class C
41 misdemeanor.

42 (f) An order under this article involving a
43 child is enforceable under Article 45.050.

44 (g) A person commits an offense if the person is
45 a parent, managing conservator, or guardian who fails
46 to attend a hearing under this article after receiving
47 an order under Subsection (e). An offense under this
48 subsection is a Class C misdemeanor.

49 (h) A child and parent required to appear before
50 the court have an obligation to provide the court in
51 writing with the current address and residence of the
52 child. The obligation does not end when the child
53 reaches age 17. On or before the seventh day after the
54 date the child or parent changes residence, the child
55 or parent shall notify the court of the current address
56 in the manner directed by the court. A violation of
57 this subsection may result in arrest and is a Class C
58 misdemeanor. The obligation to provide notice
59 terminates on discharge and satisfaction of the
60 judgment or final disposition not requiring a finding
61 of guilt.

62 (i) If an appellate court accepts an appeal for
63 a trial de novo, the child and parent shall provide the
64 notice under Subsection (h) to the appellate court.

65 (j) The child and parent are entitled to written
66 notice of their obligation under Subsections (h) and
67 (i), which may be satisfied by being given a copy of
68 those subsections by:

1 (1) the court during their initial
2 appearance before the court;

3 (2) a peace officer arresting and
4 releasing a child under Article 45.058(a) on release;
5 and

6 (3) a peace officer that issues a citation
7 under Section 543.003, Transportation Code, or Article
8 14.06(b) of this code.

9 (k) It is an affirmative defense to prosecution
10 under Subsection (h) that the child and parent were not
11 informed of their obligation under this article.

12 (l) Any order under this article is enforceable
13 by the justice or municipal court by contempt.

14 Revisor's Note

15 Articles 45.057(c), (d), and (g), Code of
16 Criminal Procedure, refer to a child's "parent" or
17 "guardian." Article 45.057(a)(3), Code of Criminal
18 Procedure, provides a definition of parent that
19 includes a "person standing in parental relation."
20 The revised law omits "guardian" as unnecessary
21 because, in this context, "guardian" is included in
22 the meaning of a "person standing in parental
23 relation."

24 Revised Law

25 Art. 45A.458. FINDING OF ELECTRONIC TRANSMISSION OF CERTAIN
26 VISUAL MATERIAL DEPICTING MINOR. (a) In this article, "parent"
27 means a natural or adoptive parent, managing or possessory
28 conservator, or legal guardian. The term does not include a parent
29 whose parental rights have been terminated.

30 (b) If a justice or municipal court finds that a defendant
31 has committed an offense under Section 43.261, Penal Code, the
32 court may enter an order requiring the defendant to attend and
33 successfully complete an educational program described by Section
34 37.218, Education Code, or another equivalent educational program.

35 (c) A court that enters an order under Subsection (b) shall
36 require the defendant or the defendant's parent to pay the cost of
37 attending an educational program under Subsection (b) if the court
38 determines that the defendant or the defendant's parent is
39 financially able to pay. (Code Crim. Proc., Art. 45.061.)

1 Source Law

2 Art. 45.061. PROCEEDINGS CONCERNING ELECTRONIC
3 TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING
4 MINOR. (a) In this article, "parent" means a natural
5 or adoptive parent, managing or possessory
6 conservator, or legal guardian. The term does not
7 include a parent whose parental rights have been
8 terminated.

9 (b) If a justice or municipal court finds that a
10 defendant has committed an offense under Section
11 43.261, Penal Code, the court may enter an order
12 requiring the defendant to attend and successfully
13 complete an educational program described by Section
14 37.218, Education Code, or another equivalent
15 educational program.

16 (c) A court that enters an order under
17 Subsection (b) shall require the defendant or the
18 defendant's parent to pay the cost of attending an
19 educational program under Subsection (b) if the court
20 determines that the defendant or the defendant's
21 parent is financially able to make payment.

22 Revised Law

23 Art. 45A.459. COMMUNITY SERVICE TO SATISFY FINES OR COSTS
24 FOR CERTAIN JUVENILE DEFENDANTS. (a) This article applies only to
25 a defendant younger than 17 years of age who is assessed a fine or
26 cost for a Class C misdemeanor.

27 (b) A justice or judge may require a defendant described by
28 Subsection (a) to discharge all or part of the fine or cost by
29 performing community service.

30 (c) An order requiring a defendant to perform community
31 service under this article must specify:

32 (1) the number of hours of community service the
33 defendant is required to perform, not to exceed 200 hours; and

34 (2) the date by which the defendant must submit to the
35 court documentation verifying that the defendant completed the
36 community service.

37 (d) The justice or judge may order the defendant to perform
38 community service under this article:

39 (1) by attending:

40 (A) a work and job skills training program;

41 (B) a preparatory class for the high school
42 equivalency examination administered under Section 7.111,
43 Education Code;

- 1 (C) an alcohol or drug abuse program;
- 2 (D) a rehabilitation program;
- 3 (E) a counseling program, including a
- 4 self-improvement program;
- 5 (F) a mentoring program; or
- 6 (G) any similar activity; or

7 (2) for:

- 8 (A) a governmental entity;
- 9 (B) a nonprofit organization or another
- 10 organization that provides to the general public services that
- 11 enhance social welfare and the general well-being of the community,
- 12 as determined by the justice or judge; or
- 13 (C) an educational institution.

14 (e) An entity that accepts a defendant to perform community

15 service under this article must agree to:

16 (1) supervise, either on-site or remotely, the

17 defendant in the performance of the defendant's community service;

18 and

19 (2) report on the defendant's community service to the

20 justice or judge who ordered the service.

21 (f) A justice or judge may not order a defendant to perform

22 more than 16 hours of community service each week under this article

23 unless the justice or judge determines that requiring the defendant

24 to perform additional hours does not impose an undue hardship on the

25 defendant or the defendant's family, as defined by Section 71.003,

26 Family Code.

27 (g) A sheriff, employee of a sheriff's department, county

28 commissioner, county employee, county judge, justice of the peace,

29 municipal court judge, or officer or employee of a political

30 subdivision other than a county or an entity that accepts a

31 defendant to perform community service under this article is not

32 liable for damages arising from an act or failure to act in

33 connection with community service performed by a defendant under

34 this article if the act or failure to act:

1 (1) was performed pursuant to court order; and
2 (2) was not intentional, wilfully or wantonly
3 negligent, or performed with conscious indifference or reckless
4 disregard for the safety of others.

5 (h) A local juvenile probation department or a
6 court-related services office may provide the administrative and
7 other services necessary to supervise a defendant required to
8 perform community service under this article.

9 (i) A defendant is considered to have discharged not less
10 than \$100 of fines or costs for each eight hours of community
11 service performed under this article.

12 (j) A defendant may discharge an obligation to perform
13 community service under this article by paying at any time the fine
14 and costs assessed. (Code Crim. Proc., Art. 45.0492, as added Acts
15 82nd Leg., R.S., Ch. 777.)

16 Source Law

17 Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION
18 OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a)
19 This article applies only to a defendant younger than
20 17 years of age who is assessed a fine or costs for a
21 Class C misdemeanor.

22 (b) A justice or judge may require a defendant
23 described by Subsection (a) to discharge all or part of
24 the fine or costs by performing community service. A
25 defendant may discharge an obligation to perform
26 community service under this article by paying at any
27 time the fine and costs assessed.

28 (c) In the justice's or judge's order requiring
29 a defendant to perform community service under this
30 article, the justice or judge shall specify:

31 (1) the number of hours of community
32 service the defendant is required to perform, not to
33 exceed 200 hours; and

34 (2) the date by which the defendant must
35 submit to the court documentation verifying the
36 defendant's completion of the community service.

37 (d) The justice or judge may order the defendant
38 to perform community service under this article:

39 (1) by attending:
40 (A) a work and job skills training
41 program;

42 (B) a preparatory class for the high
43 school equivalency examination administered under
44 Section 7.111, Education Code;

45 (C) an alcohol or drug abuse program;

46 (D) a rehabilitation program;

47 (E) a counseling program, including a
48 self-improvement program;

49 (F) a mentoring program; or

50 (G) any similar activity; or

51 (2) for:

1 (A) a governmental entity;
2 (B) a nonprofit organization or
3 another organization that provides services to the
4 general public that enhance social welfare and the
5 general well-being of the community, as determined by
6 the justice or judge; or

7 (C) an educational institution.

8 (d-1) An entity that accepts a defendant under
9 this article to perform community service must agree
10 to supervise, either on-site or remotely, the
11 defendant in the performance of the defendant's
12 community service and report on the defendant's
13 community service to the justice or judge who ordered
14 the service.

15 (e) A justice or judge may not order a defendant
16 to perform more than 16 hours of community service per
17 week under this article unless the justice or judge
18 determines that requiring the defendant to perform
19 additional hours does not impose an undue hardship on
20 the defendant or the defendant's family. For purposes
21 of this subsection, "family" has the meaning assigned
22 by Section 71.003, Family Code.

23 (f) A sheriff, employee of a sheriff's
24 department, county commissioner, county employee,
25 county judge, justice of the peace, municipal court
26 judge, or officer or employee of a political
27 subdivision other than a county or an entity that
28 accepts a defendant under this article to perform
29 community service is not liable for damages arising
30 from an act or failure to act in connection with
31 community service performed by a defendant under this
32 article if the act or failure to act:

33 (1) was performed pursuant to court order;
34 and
35 (2) was not intentional, wilfully or
36 wantonly negligent, or performed with conscious
37 indifference or reckless disregard for the safety of
38 others.

39 (g) A local juvenile probation department or a
40 court-related services office may provide the
41 administrative and other services necessary for
42 supervision of a defendant required to perform
43 community service under this article.

44 (h) A defendant is considered to have discharged
45 not less than \$100 of fines or costs for each eight
46 hours of community service performed under this
47 article.

48 Revised Law

49 Art. 45A.460. COMMUNITY SERVICE TO SATISFY FINES OR COSTS
50 FOR CERTAIN JUVENILE DEFENDANTS FOR OFFENSES ON SCHOOL GROUNDS.

51 (a) This article applies only to a defendant younger than 17 years
52 of age who is assessed a fine or cost for a Class C misdemeanor
53 occurring in a building or on the grounds of the primary or
54 secondary school at which the defendant was enrolled at the time of
55 the offense.

56 (b) A justice or judge may require a defendant described by
57 Subsection (a) to discharge all or part of the fine or cost by

1 performing community service.

2 (c) An order requiring a defendant to perform community
3 service under this article must specify:

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

6 (2) the date by which the defendant must submit to the
7 court documentation verifying that the defendant completed the
8 community service.

9 (d) The justice or judge may order the defendant to perform
10 community service under this article:

11 (1) by attending:

12 (A) a work and job skills training program;

13 (B) a preparatory class for the high school
14 equivalency examination administered under Section 7.111,
15 Education Code;

16 (C) an alcohol or drug abuse program;

17 (D) a rehabilitation program;

18 (E) a counseling program, including a
19 self-improvement program;

20 (F) a mentoring program;

21 (G) a tutoring program; or

22 (H) any similar activity; or

23 (2) for:

24 (A) a governmental entity;

25 (B) a nonprofit organization or another
26 organization that provides to the general public services that
27 enhance social welfare and the general well-being of the community,
28 as determined by the justice or judge; or

29 (C) an educational institution.

30 (e) An entity that accepts a defendant to perform community
31 service under this article must agree to:

32 (1) supervise, either on-site or remotely, the
33 defendant in the performance of the defendant's community service;
34 and

1 17 years of age who is assessed a fine or costs for a
2 Class C misdemeanor occurring in a building or on the
3 grounds of the primary or secondary school at which the
4 defendant was enrolled at the time of the offense.

5 (b) A justice or judge may require a defendant
6 described by Subsection (a) to discharge all or part of
7 the fine or costs by performing community service. A
8 defendant may discharge an obligation to perform
9 community service under this article by paying at any
10 time the fine and costs assessed.

11 (c) In the justice's or judge's order requiring
12 a defendant to perform community service under this
13 article, the justice or judge must specify:

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

16 (2) the date by which the defendant must
17 submit to the court documentation verifying the
18 defendant's completion of the community service.

19 (d) The justice or judge may order the defendant
20 to perform community service under this article:

21 (1) by attending:

22 (A) a work and job skills training
23 program;

24 (B) a preparatory class for the high
25 school equivalency examination administered under
26 Section 7.111, Education Code;

27 (C) an alcohol or drug abuse program;

28 (D) a rehabilitation program;

29 (E) a counseling program, including a
30 self-improvement program;

31 (F) a mentoring program;

32 (G) a tutoring program; or

33 (H) any similar activity; or

34 (2) for:

35 (A) a governmental entity;

36 (B) a nonprofit organization or
37 another organization that provides services to the
38 general public that enhance social welfare and the
39 general well-being of the community, as determined by
40 the justice or judge; or

41 (C) an educational institution.

42 (d-1) An entity that accepts a defendant under
43 this article to perform community service must agree
44 to supervise, either on-site or remotely, the
45 defendant in the performance of the defendant's
46 community service and report on the defendant's
47 community service to the justice or judge who ordered
48 the service.

49 (f) A justice or judge may not order a defendant
50 to perform more than 16 hours of community service per
51 week under this article unless the justice or judge
52 determines that requiring the defendant to perform
53 additional hours does not impose an undue hardship on
54 the defendant or the defendant's family. For purposes
55 of this subsection, "family" has the meaning assigned
56 by Section 71.003, Family Code.

57 (g) A defendant is considered to have discharged
58 not less than \$100 of fines or costs for each eight
59 hours of community service performed under this
60 article.

61 (h) A sheriff, employee of a sheriff's
62 department, county commissioner, county employee,
63 county judge, justice of the peace, municipal court
64 judge, or officer or employee of a political
65 subdivision other than a county or an entity that
66 accepts a defendant under this article to perform
67 community service is not liable for damages arising
68 from an act or failure to act in connection with

1 community service performed by a defendant under this
2 article if the act or failure to act:

3 (1) was performed pursuant to court order;
4 and

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

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

13 Revised Law

14 Art. 45A.461. FAILURE TO PAY FINE OR APPEAR. (a) In this
15 article, "child" has the meaning assigned by Article 45A.453(a).

16 (b) A justice or municipal court may not order the
17 confinement of a child for:

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

20 (2) the failure to appear for an offense committed by
21 the child; or

22 (3) contempt of another order of a justice or
23 municipal court.

24 (c) If a child fails to obey an order of a justice or
25 municipal court under circumstances that would constitute contempt
26 of court, the justice or municipal court, after providing notice
27 and an opportunity to be heard, may:

28 (1) refer the child to the appropriate juvenile court
29 for delinquent conduct for contempt of the order; or

30 (2) retain jurisdiction of the case, hold the child in
31 contempt of court, and order that:

32 (A) the contemnor pay a fine not to exceed \$500;
33 or

34 (B) the Department of Public Safety suspend the
35 contemnor's driver's license or permit or, if the contemnor does not
36 have a license or permit, deny the issuance of a license or permit
37 to the contemnor until the contemnor fully complies with the order.

38 (d) A justice or municipal court may hold a person in
39 contempt and impose a remedy authorized by Subsection (c)(2) if:

40 (1) the person was convicted for an offense committed

1 before the person's 17th birthday;

2 (2) the person failed to obey the order while the
3 person was 17 years of age or older; and

4 (3) the failure to obey occurred under circumstances
5 that constitute contempt of court.

6 (e) A justice or municipal court may hold a person in
7 contempt and impose a remedy authorized by Subsection (c)(2) if the
8 person, while younger than 17 years of age, engaged in conduct in
9 contempt of an order issued by the court, but contempt proceedings
10 could not be held before the person's 17th birthday.

11 (f) A justice or municipal court that orders suspension or
12 denial of a driver's license or permit under Subsection (c)(2)(B)
13 shall notify the Department of Public Safety on receiving proof of
14 compliance with the orders of the justice or municipal court.

15 (g) A justice or municipal court may not refer a person who
16 violates a court order while 17 years of age or older to a juvenile
17 court for delinquency proceedings for contempt of court. (Code
18 Crim. Proc., Art. 45.050.)

19 Source Law

20 Art. 45.050. FAILURE TO PAY FINE; FAILURE TO
21 APPEAR; CONTEMPT: JUVENILES. (a) In this article,
22 "child" has the meaning assigned by Article 45.058(h).

23 (b) A justice or municipal court may not order
24 the confinement of a child for:

25 (1) the failure to pay all or any part of a
26 fine or costs imposed for the conviction of an offense
27 punishable by fine only;

28 (2) the failure to appear for an offense
29 committed by the child; or

30 (3) contempt of another order of a justice
31 or municipal court.

32 (c) If a child fails to obey an order of a
33 justice or municipal court under circumstances that
34 would constitute contempt of court, the justice or
35 municipal court, after providing notice and an
36 opportunity to be heard, may:

37 (1) refer the child to the appropriate
38 juvenile court for delinquent conduct for contempt of
39 the justice or municipal court order; or

40 (2) retain jurisdiction of the case, hold
41 the child in contempt of the justice or municipal
42 court, and order either or both of the following:

43 (A) that the contemnor pay a fine not
44 to exceed \$500; or

45 (B) that the Department of Public
46 Safety suspend the contemnor's driver's license or
47 permit or, if the contemnor does not have a license or
48 permit, to deny the issuance of a license or permit to

1 the contemnor until the contemnor fully complies with
2 the orders of the court.

3 (d) A justice or municipal court may hold a
4 person in contempt and impose a remedy authorized by
5 Subsection (c)(2) if:

6 (1) the person was convicted for an
7 offense committed before the person's 17th birthday;

8 (2) the person failed to obey the order
9 while the person was 17 years of age or older; and

10 (3) the failure to obey occurred under
11 circumstances that constitute contempt of court.

12 (e) A justice or municipal court may hold a
13 person in contempt and impose a remedy authorized by
14 Subsection (c)(2) if the person, while younger than 17
15 years of age, engaged in conduct in contempt of an
16 order issued by the justice or municipal court, but
17 contempt proceedings could not be held before the
18 person's 17th birthday.

19 (f) A court that orders suspension or denial of
20 a driver's license or permit under Subsection
21 (c)(2)(B) shall notify the Department of Public Safety
22 on receiving proof of compliance with the orders of the
23 court.

24 (g) A justice or municipal court may not refer a
25 child who violates a court order while 17 years of age
26 or older to a juvenile court for delinquency
27 proceedings for contempt of court.

28 Revised Law

29 Art. 45A.462. CONFIDENTIAL RECORDS RELATED TO CERTAIN
30 CHARGES AGAINST OR CONVICTIONS OF CHILD. (a) In this article,
31 "child" has the meaning assigned by Article 45A.453(a).

32 (b) Except as provided by Article 15.27 and Subsection (c)
33 of this article, all records and files, including those held by law
34 enforcement, and information stored by electronic means or
35 otherwise, from which a record or file could be generated, relating
36 to a child who is charged with, is convicted of, is found not guilty
37 of, had a charge dismissed for, or is granted deferred disposition
38 for a fine-only misdemeanor offense other than a traffic offense
39 are confidential and may not be disclosed to the public.

40 (c) Information subject to Subsection (b) may be open to
41 inspection only by:

42 (1) a judge or court staff;

43 (2) a criminal justice agency for a criminal justice
44 purpose, as those terms are defined by Section 411.082, Government
45 Code;

46 (3) the Department of Public Safety;

47 (4) an attorney for a party to the proceeding;

- 1 (5) the child defendant; or
2 (6) the defendant's parent, guardian, or managing
3 conservator. (Code Crim. Proc., Art. 45.0217.)

4 Source Law

5 Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO
6 CHARGES AGAINST OR CONVICTION OF A CHILD. (a) Except
7 as provided by Article 15.27 and Subsection (b), all
8 records and files, including those held by law
9 enforcement, and information stored by electronic
10 means or otherwise, from which a record or file could
11 be generated, relating to a child who is charged with,
12 is convicted of, is found not guilty of, had a charge
13 dismissed for, or is granted deferred disposition for
14 a fine-only misdemeanor offense other than a traffic
15 offense are confidential and may not be disclosed to
16 the public.

17 (b) Information subject to Subsection (a) may be
18 open to inspection only by:

- 19 (1) judges or court staff;
20 (2) a criminal justice agency for a
21 criminal justice purpose, as those terms are defined
22 by Section 411.082, Government Code;
23 (3) the Department of Public Safety;
24 (4) an attorney for a party to the
25 proceeding;
26 (5) the child defendant; or
27 (6) the defendant's parent, guardian, or
28 managing conservator.

29 (c) In this article, "child" has the meaning
30 assigned by Article 45.058(h).

31 Revised Law

32 Art. 45A.463. EXPUNCTION OF CERTAIN RECORDS OF CHILD OR
33 MINOR. (a) In this article, "child" has the meaning assigned by
34 Section 51.02, Family Code.

35 (b) This article does not apply to an offense otherwise
36 covered by:

- 37 (1) Chapter 106, Alcoholic Beverage Code; or
38 (2) Chapter 161, Health and Safety Code.

39 (c) On or after the person's 17th birthday, a person may
40 apply to the court in which the person was convicted to have the
41 conviction expunged as provided by this article if:

42 (1) the person was convicted of not more than one
43 offense described by Section 8.07(a)(4) or (5), Penal Code, while
44 the person was a child; or

45 (2) the person was convicted only once of an offense
46 under Section 43.261, Penal Code.

1 (d) The person must make a written request to have the
2 records expunged.

3 (e) The request must:

4 (1) be under oath; and

5 (2) contain the person's statement that the person was
6 not convicted of any additional offense or found to have engaged in
7 conduct indicating a need for supervision as described by
8 Subsection (g)(1) or (2), as applicable.

9 (f) The judge shall inform the person and any parent in open
10 court of the person's expunction rights and provide them with a copy
11 of this article.

12 (g) The court shall order the conviction, together with all
13 complaints, verdicts, sentences, and prosecutorial and law
14 enforcement records, and any other documents relating to the
15 offense, expunged from the person's record if the court finds that:

16 (1) for a person applying for the expunction of a
17 conviction for an offense described by Section 8.07(a)(4) or (5),
18 Penal Code, the person was not convicted of any other offense
19 described by those subdivisions while the person was a child; and

20 (2) for a person applying for the expunction of a
21 conviction for an offense described by Section 43.261, Penal Code,
22 the person was not found to have engaged in conduct indicating a
23 need for supervision described by Section 51.03(b)(6), Family Code,
24 while the person was a child.

25 (h) After entry of an order under Subsection (g), the person
26 is released from all disabilities resulting from the conviction and
27 the conviction may not be shown or made known for any purpose.

28 (i) Records of a person younger than 17 years of age
29 relating to a complaint may be expunged under this article if:

30 (1) the complaint was dismissed under Subchapter G,
31 Article 45A.401, or other law; or

32 (2) the person was acquitted of the offense.

33 (j) The justice or municipal court shall require a person
34 who requests expunction under this article to pay a reimbursement

1 fee in the amount of \$30 to defray the cost of notifying state
2 agencies of orders of expunction under this article.

3 (k) The procedures for expunction provided under this
4 article are separate and distinct from the expunction procedures
5 under Chapter 55A. (Code Crim. Proc., Art. 45.0216.)

6 Source Law

7 Art. 45.0216. EXPUNCTION OF CERTAIN CONVICTION
8 RECORDS. (a) In this article, "child" has the meaning
9 assigned by Section 51.02, Family Code.

10 (b) A person may apply to the court in which the
11 person was convicted to have the conviction expunged
12 as provided by this article on or after the person's
13 17th birthday if:

14 (1) the person was convicted of not more
15 than one offense described by Section 8.07(a)(4) or
16 (5), Penal Code, while the person was a child; or

17 (2) the person was convicted only once of
18 an offense under Section 43.261, Penal Code.

19 (c) The person must make a written request to
20 have the records expunged. The request must be under
21 oath.

22 (d) The request must contain the person's
23 statement that the person was not convicted of any
24 additional offense or found to have engaged in conduct
25 indicating a need for supervision as described by
26 Subsection (f)(1) or (2), as applicable.

27 (e) The judge shall inform the person and any
28 parent in open court of the person's expunction rights
29 and provide them with a copy of this article.

30 (f) The court shall order the conviction,
31 together with all complaints, verdicts, sentences, and
32 prosecutorial and law enforcement records, and any
33 other documents relating to the offense, expunged from
34 the person's record if the court finds that:

35 (1) for a person applying for the
36 expunction of a conviction for an offense described by
37 Section 8.07(a)(4) or (5), Penal Code, the person was
38 not convicted of any other offense described by
39 Section 8.07(a)(4) or (5), Penal Code, while the
40 person was a child; and

41 (2) for a person applying for the
42 expunction of a conviction for an offense described by
43 Section 43.261, Penal Code, the person was not found to
44 have engaged in conduct indicating a need for
45 supervision described by Section 51.03(b)(6), Family
46 Code, while the person was a child.

47 (f-1) After entry of an order under Subsection
48 (f), the person is released from all disabilities
49 resulting from the conviction and the conviction may
50 not be shown or made known for any purpose.

51 (g) This article does not apply to any offense
52 otherwise covered by:

53 (1) Chapter 106, Alcoholic Beverage Code;
54 or

55 (2) Chapter 161, Health and Safety Code.

56 (h) Records of a person under 17 years of age
57 relating to a complaint may be expunged under this
58 article if:

59 (1) the complaint was dismissed under
60 Article 45.051 or 45.052 or other law; or

61 (2) the person was acquitted of the

1 offense.

2 (i) The justice or municipal court shall require
3 a person who requests expungement under this article
4 to pay a reimbursement fee in the amount of \$30 to
5 defray the cost of notifying state agencies of orders
6 of expungement under this article.

7 (j) The procedures for expunction provided
8 under this article are separate and distinct from the
9 expunction procedures under Chapter 55.

10 Revised Law

11 Art. 45A.464. EXPUNCTION OF RECORDS RELATED TO FAILURE TO
12 ATTEND SCHOOL. (a) In this article, "truancy offense" means an
13 offense committed under the former Section 25.094, Education Code.

14 (b) An individual who has been convicted of a truancy
15 offense or has had a complaint for a truancy offense dismissed is
16 entitled to an expunction of the conviction or complaint and
17 records relating to the conviction or complaint.

18 (c) Regardless of whether the individual has filed a
19 petition for expunction, the court in which the individual was
20 convicted or a complaint for a truancy offense was filed shall order
21 the conviction, complaints, verdicts, sentences, and other
22 documents relating to the offense, including any documents in the
23 possession of a school district or law enforcement agency, to be
24 expunged from the individual's record.

25 (d) After entry of the order, the individual is released
26 from all disabilities resulting from the conviction or complaint,
27 and the conviction or complaint may not be shown or made known for
28 any purpose. (Code Crim. Proc., Art. 45.0541.)

29 Source Law

30 Art. 45.0541. EXPUNCTION OF FAILURE TO ATTEND
31 SCHOOL RECORDS. (a) In this article, "truancy
32 offense" means an offense committed under the former
33 Section 25.094, Education Code.

34 (b) An individual who has been convicted of a
35 truancy offense or has had a complaint for a truancy
36 offense dismissed is entitled to have the conviction
37 or complaint and records relating to the conviction or
38 complaint expunged.

39 (c) Regardless of whether the individual has
40 filed a petition for expunction, the court in which the
41 individual was convicted or a complaint for a truancy
42 offense was filed shall order the conviction,
43 complaints, verdicts, sentences, and other documents
44 relating to the offense, including any documents in
45 the possession of a school district or law enforcement
46 agency, to be expunged from the individual's record.
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