

Comparison of Former and Amended Law -- S.B. 346 (86th Regular Session)

Under Former Law	Section	Under Amended Law (Effective January 1, 2020)	Statute
PRESENT ABILITY TO PAY	Section 3.01	Except as otherwise specifically provided, in determining a defendant 's ability to pay for any purpose, the court shall consider only the defendant 's present ability to pay.	Art. 1.053, CCP
DEFINITION OF COST	Section 3.08	The general definition of "cost" includes any fee imposed on a defendant by the justice of the peace or municipal judge at the time the judgment is entered.	Art. 45.004, CCP
APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE	Section 3.09	Municipal judges and justices of the peace have the discretion to allow a defendant to appear by telephone or videoconference if requiring a defendant to make a personal appearance would impose an undue hardship on the defendant. This applies to show cause hearings prior to the issuance of a capias pro fine and to the new reconsideration hearing.	Art. 45.0201, CCP
RECONSIDERATION - "DEFENDANT'S SHOW CAUSE"	Section 3.09	A new type of hearing under Art. 45.0445 requires a justice or judge to hold a hearing to determine whether a judgment imposes an undue hardship on the defendant if the defendant gives notice that they have difficulty paying the fine and costs in compliance with the judgment. Notice may be given through appearance in court, filing a motion, mailing a letter, or any other method established by the court.	Art. 45.0445, CCP
CAPIAS PRO FINE SHOW CAUSE HEARINGS: Article 45.045, Section (a-2) prohibited the court from issuing a capias pro fine for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing on the <u>defendant's ability to satisfy the judgment.</u>	Section 3.10	Prohibits a court from issuing a capias pro fine for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing to determine <u>whether the judgment imposes an undue hardship on the defendant.</u> A justice or judge may decline to hold an (a-2) hearing if they (1) have already made a determination of undue hardship, or (2) are able to make such a determination without holding a hearing.	Art. 45.045(a-2), CCP
CAPIAS PRO FINE SHOW CAUSE HEARINGS	Section 3.11	If, after a capias pro fine show cause hearing, a judge finds the judgment to impose an "undue hardship," the judge must determine how the fine and costs should be satisfied. But if a justice or judge determines at the (a-2) hearing that the judgment does <u>not</u> impose an "undue hardship", the judge must order the defendant to comply with the judgment not later than the 30th day after the determination is made.	45.045(a-3), (a-4), CCP
CAPIAS PRO FINE "SAFE HARBOR": Article 45.045, Section (a-3) required the court to recall a capias pro fine if, before the capias pro fine is executed: (1) the defendant voluntarily appeared to resolve the amount owed; and (2) the amount owed was resolved in any manner authorized.	Section 3.11	A court must recall a capias pro fine if, before the capias pro fine is executed, (1) the defendant provides notice to the justice or judge under Article 45.0445 and a hearing is set under that article, or (2) the defendant voluntarily appears and makes a good faith effort to resolve the capias pro fine.	Art. 45.045(a-5), CCP
UNDUE HARDSHIP CRITERIA	Section 3.12	A court has discretion when making a determination of undue hardship. In determining undue hardship, a court is authorized to consider: (1) significant physical or mental impairment or disability; (2) pregnancy and childbirth; (3) substantial family commitments or responsibilities, including child or dependent care; (4) work responsibilities and hours; (5) transportation limitations; (6) homelessness or housing insecurity; and (7) any other factor the court determines relevant. Additionally, a municipal court or a justice court may waive payment of all or part of costs imposed on a defendant if the court determines that the defendant: (1) is indigent or does not have sufficient resources or income to pay all or part of the costs; or (2) was, at the time the offense was committed, a child as defined by Article 45.058(h).	Art. 45.0491, CCP