

CODE OF CRIMINAL PROCEDURE  
TITLE 1. CODE OF CRIMINAL PROCEDURE  
CHAPTER 45. JUSTICE AND MUNICIPAL COURTS  
  
SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

(4) to process cases without unnecessary expense or delay.  
Added by Acts 1999, 76th Leg., ch. 1545, Sec. 6, eff. Sept. 1, 1999.

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 6, eff. Sept. 1, 1999.

Art. 45.003. DEFINITION FOR CERTAIN PROSECUTIONS. For purposes of dismissing a charge under Section [502.407](#), Transportation Code, "day" does not include Saturday, Sunday, or a legal holiday.

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. [2305](#)), Sec. 2, eff. March 1, 2015.

## SUBCHAPTER B. PROCEDURES FOR JUSTICE AND MUNICIPAL COURTS

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.38 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 8, eff. Sept. 1, 1999.

Art. 45.012. ELECTRONICALLY CREATED RECORDS. (a) Notwithstanding any other provision of law, a document that is issued or maintained by a justice or municipal court or a notice or a citation issued by a law enforcement officer may be created by electronic means, including optical imaging, optical disk, digital imaging, or other electronic reproduction technique that does not permit changes, additions, or deletions to the originally created document.

(b) The court may use electronic means to:

- (1) produce a document required by law to be written;
- (2) record an instrument, paper, or notice that is permitted or required by law to be recorded or filed; or
- (3) maintain a docket.

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

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

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

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

(g) A justice or municipal court shall have a court seal, the impression of which must be attached to all papers issued out of the court except subpoenas, and which must be used to authenticate the

official acts of the clerk and of the recorder. A court seal may be created by electronic means, including optical imaging, optical disk, or other electronic reproduction technique that does not permit changes, additions, or deletions to an original document created by the same type of system.

(h) A statutory requirement that a document contain the signature of any person, including a judge, clerk of the court, or defendant, is satisfied if the document contains that signature as captured on an electronic device.

Added by Acts 1995, 74th Leg., ch. 735, Sec. 2, eff. Sept. 1, 1995. Subsec. (a) amended by Acts 1999, 76th Leg., ch. 701, Sec. 2, eff. Aug. 30, 1999; Subsec. (f) added by Acts 1999, 76th Leg., ch. 701, Sec. 2, eff. Aug. 30, 1999. Renumbered from Vernon's Ann.C.C.P. art. 45.021 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 9, eff. Sept. 1, 1999; Subsec. (h) relettered from subsec. (f) by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(12), eff. Sept. 1, 2001.

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

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

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

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

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 10, eff. Sept. 1, 1999.

Art. 45.014. WARRANT OF ARREST. (a) When a sworn complaint or affidavit based on probable cause has been filed before the

justice or municipal court, the justice or judge may issue a warrant for the arrest of the accused and deliver the same to the proper officer to be executed.

(b) The warrant is sufficient if:

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

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

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

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

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

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

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.18 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 11, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 644 (H.B. [2885](#)), Sec. 1, eff. September 1, 2005.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.43 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 12, eff. Sept. 1, 1999.

Art. 45.016. BAIL. The justice or judge may require the defendant to give bail to secure the defendant's appearance in accordance with this code. If the defendant fails to give bail, the defendant may be held in custody.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.41 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 13, eff. Sept. 1, 1999.

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

- (1) the style and file number of each criminal action;
- (2) the nature of the offense charged;
- (3) the plea offered by the defendant and the date the plea was entered;
- (4) the date the warrant, if any, was issued and the return made thereon;
- (5) the date the examination or trial was held, and if a trial was held, whether it was by a jury or by the justice or judge;
- (6) the verdict of the jury, if any, and the date of the verdict;
- (7) the judgment and sentence of the court, and the date each was given;
- (8) the motion for new trial, if any, and the decision thereon; and
- (9) whether an appeal was taken and the date of that action.

(b) The information in the docket may be processed and stored by the use of electronic data processing equipment, at the discretion of the justice of the peace or the municipal court judge. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1989, 71st Leg., ch. 499, Sec. 1, eff. Aug. 28, 1989. Renumbered from Vernon's Ann.C.C.P. art. 45.13 and amended by Acts 1999, 76th Leg.,

ch. 1545, Sec. 14, eff. Sept. 1, 1999.

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

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 15, eff. Sept. 1, 1999.

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

(1) it must be in writing;

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

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

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

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

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

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

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

(c) A complaint filed in municipal court must allege that the offense was committed in the territorial limits of the municipality

in which the complaint is made.

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

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

- (1) the municipal judge;
- (2) the clerk of the court or a deputy clerk;
- (3) the city secretary; or
- (4) the city attorney or a deputy city attorney.

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

(g) In a county with a population of more than two million that does not have a county attorney, a complaint for an offense under Section [32.41](#), Penal Code, must be approved by the district attorney, regardless of whether a collection proceeding is initiated by the district attorney under Section [32.41\(e\)](#), Penal Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.17 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 16, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 644 (H.B. [2885](#)), Sec. 2, eff. September 1, 2005.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [1386](#), 84th Legislature, Regular Session, for amendments affecting this section.

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

(b) Not more than one counsel shall conduct either the prosecution or defense. State's counsel may open and conclude the argument.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.37 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 17, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.33 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 18, eff. Sept. 1, 1999.

Art. 45.0215. PLEA BY MINOR AND APPEARANCE OF PARENT.

(a) This article applies to a defendant who has not had the disabilities of minority removed and has been:

(1) charged with an offense other than an offense under Section [43.261](#), Penal Code, if the defendant is younger than 17 years of age; or

(2) charged with an offense under Section [43.261](#), Penal Code, if the defendant is younger than 18 years of age.

(a-1) The judge or justice:

(1) must take the defendant's plea in open court; and

(2) shall issue a summons to compel the defendant's parent, guardian, or managing conservator to be present during:

(A) the taking of the defendant's plea; and

(B) all other proceedings relating to the case.

(b) If the court is unable to secure the appearance of the defendant's parent, guardian, or managing conservator by issuance of a summons, the court may, without the defendant's parent, guardian, or managing conservator present, take the defendant's plea and proceed against the defendant.

(c) If the defendant resides in a county other than the county in which the alleged offense occurred, the defendant may, with leave of the judge of the court of original jurisdiction, enter the plea, including a plea under Article [45.052](#), before a judge in the county in which the defendant resides.

(d) A justice or municipal court shall endorse on the summons issued to a parent an order to appear personally at a

hearing with the child. The summons must include a warning that the failure of the parent to appear may result in arrest and is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 193, Sec. 1, eff. Sept. 1, 1997. Renumbered from Vernon's Ann.C.C.P. art. 45.331 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 19, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 33, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 12, eff. September 1, 2011.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2398 and S.B. 108, 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.0216. EXPUNCTION OF CERTAIN CONVICTION RECORDS.

(a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.

(b) A person may apply to the court in which the person was convicted to have the conviction expunged as provided by this article on or after the person's 17th birthday if:

(1) the person was convicted of not more than one offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; or

(2) the person was convicted only once of an offense under Section 43.261, Penal Code.

(c) The person must make a written request to have the records expunged. The request must be under oath.

(d) The request must contain the person's statement that the person was not convicted of any additional offense or found to have engaged in conduct indicating a need for supervision as described by Subsection (f)(1) or (2), as applicable.

(e) The judge shall inform the person and any parent in open court of the person's expunction rights and provide them with a copy of this article.

(f) The court shall order the conviction, together with all

complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that:

(1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and

(2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(8), Family Code, while the person was a child.

(f-1) After entry of an order under Subsection (f), the person is released from all disabilities resulting from the conviction and the conviction may not be shown or made known for any purpose.

(g) This article does not apply to any offense otherwise covered by:

- (1) Chapter 106, Alcoholic Beverage Code;
- (2) Chapter 161, Health and Safety Code; or
- (3) Section 25.094, Education Code.

(h) Records of a person under 17 years of age relating to a complaint dismissed as provided by Article 45.051 or 45.052 may be expunged under this article.

(i) The justice or municipal court shall require a person who requests expungement under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expungement under this article.

(j) The procedures for expunction provided under this article are separate and distinct from the expunction procedures under Chapter 55.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 50, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 886 (S.B. 1426), Sec. 2, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. [407](#)), Sec. 13, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. [407](#)), Sec. 14, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. [2862](#)), Sec. 3, eff. September 1, 2013.

Text of article heading as amended by Acts 2013, 83rd Leg., R.S.,  
Ch. 1257 (H.B. [528](#)), Sec. 2

Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO CHARGES  
AGAINST OR THE CONVICTION OF A CHILD.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.  
1257 (H.B. [528](#)), Sec. 3

(a) Except as provided by Article [15.27](#) and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public.

(b) Information subject to Subsection (a) may be open to inspection only by:

- (1) judges or court staff;
- (2) a criminal justice agency for a criminal justice purpose, as those terms are defined by Section [411.082](#), Government Code;
- (3) the Department of Public Safety;
- (4) an attorney for a party to the proceeding;
- (5) the child defendant; or
- (6) the defendant's parent, guardian, or managing conservator.

Added by Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. [961](#)), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1257 (H.B. 528), Sec. 2, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1257 (H.B. 528), Sec. 3, eff. January 1, 2014.

Text of article as amended by Acts 2013, 83rd Leg., R.S., Ch. 1319 (S.B. 394), Sec. 2, and Ch. 1407 (S.B. 393), Sec. 4

Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO THE CONVICTION OF OR DEFERRAL OF DISPOSITION FOR A CHILD. (a) This article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(a-1) Except as provided by Article 15.27 and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an offense described by Subsection (a) are confidential and may not be disclosed to the public.

(b) Information subject to Subsection (a-1) may be open to inspection only by:

- (1) judges or court staff;
- (2) a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code;
- (3) the Department of Public Safety;
- (4) an attorney for a party to the proceeding;
- (5) the child defendant; or
- (6) the defendant's parent, guardian, or managing conservator.

Added by Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1319 (S.B. 394), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 4, eff. September 1, 2013.

Art. 45.022. PLEA OF GUILTY OR NOLO CONTENDERE. Proof as to the offense may be heard upon a plea of guilty or a plea of nolo contendere and the punishment assessed by the court .  
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.34 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 20, eff. Sept. 1, 1999.

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

- (1) plead guilty or not guilty;
- (2) enter a plea of nolo contendere; or
- (3) enter the special plea of double jeopardy as described by Article [27.05](#).

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

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

- (1) accept the defendant's plea;
- (2) assess a fine, determine costs, and accept payment of the fine and costs;
- (3) give the defendant credit for time served;
- (4) determine whether the defendant is indigent; or
- (5) discharge the defendant.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.31 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 21, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 691 (H.B. [2679](#)), Sec. 1, eff. September 1, 2013.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.35 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 22, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.24 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 23, eff. Sept. 1, 1999.

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

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

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

Added by Acts 1995, 74th Leg., ch. 122, Sec. 1, eff. Sept. 1, 1995. Renumbered from Vernon's Ann.C.C.P. art. 45.251 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 24, eff. Sept. 1, 1999.

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

(b) The jurors when so summoned shall remain in attendance as

jurors in all cases that may come up for hearing until discharged by the court.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1995, 74th Leg., ch. 802, Sec. 1, eff. Sept. 1, 1995. Renumbered from Vernon's Ann.C.C.P. art. 45.25 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 25, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.29 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 26, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.28 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 27, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.30 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 28, eff. Sept. 1, 1999.

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

- (1) postpone the trial to a date certain;
- (2) appoint an attorney pro tem as provided by this code to represent the state; or

(3) proceed to trial.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.36 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 29, eff. Sept. 1, 1999

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

Added by Acts 1969, 61st Leg., p. 1655, ch. 520, Sec. 2, eff. June 10, 1969. Renumbered from Vernon's Ann.C.C.P. art. 45.031 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 30, eff. Sept. 1, 1999.

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 31, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.39 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 32, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1995, 74th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 1995. Renumbered from Vernon's Ann.C.C.P. art. 45.40 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 33, eff. Sept. 1, 1999.

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.42 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 34, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.45 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 35, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 395 (S.B. [519](#)), Sec. 1, eff. September 1, 2011.

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.44 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 36, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from

Vernon's Ann.C.C.P. art. 45.46 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 37, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.47 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 38, eff. Sept. 1, 1999.

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

(b) Subject to Subsections (b-2) and (b-3), the justice or judge may direct the defendant:

(1) to pay:

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

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

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

(2) if applicable, to make restitution to any victim of the offense; and

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

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

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

(b-3) A judge may allow a defendant who is a child, as defined by Article [45.058\(h\)](#), to elect at the time of conviction, as defined by Section [133.101](#), Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving

tutoring under Article [45.0492](#), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

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

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

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

(c) The justice or judge shall credit the defendant for time served in jail as provided by Article [42.03](#). The credit shall be applied to the amount of the fine and costs at the rate provided by Article [45.048](#).

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 5, eff. June 15, 1971. Renumbered from Vernon's Ann.C.C.P. art. 45.50 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 39, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1393 (H.B. [485](#)), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 464 (H.B. [27](#)), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1320 (S.B. [395](#)), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. [393](#)), Sec. 5, eff. September 1, 2013.

Art. 45.042. APPEAL. (a) Appeals from a justice or municipal

court, including appeals from final judgments in bond forfeiture proceedings, shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the proper court.

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1987, 70th Leg., ch. 641, Sec. 4, eff. Sept. 1, 1987. Renumbered from Vernon's Ann.C.C.P. art. 45.10 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 40, eff. Sept. 1, 1999.

Art. 45.0425. APPEAL BOND. (a) If the court from whose judgment and sentence the appeal is taken is in session, the court must approve the bail. The amount of a bail bond may not be less than two times the amount of the fine and costs adjudged against the defendant, payable to the State of Texas. The bail may not in any case be for a sum less than \$50. If the appeal bond otherwise meets the requirements of this code, the court without requiring a court appearance by the defendant shall approve the appeal bond in the amount the court under Article [27.14](#)(b) notified the defendant would be approved.

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 41, eff. Sept. 1, 1999.

Art. 45.0426. FILING BOND PERFECTS APPEAL. (a) When the

appeal bond has been filed with the justice or judge who tried the case not later than the 10th day after the date the judgment was entered, the appeal in such case shall be held to be perfected.

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1995, 74th Leg., ch. 478, Sec. 1, eff. Sept. 1, 1995. Renumbered from Vernon's Ann.C.C.P. art. 45.14 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 42, eff. Sept. 1, 1999.

Art. 45.043. EFFECT OF APPEAL. When a defendant files the appeal bond required by law with the justice or municipal court, all further proceedings in the case in the justice or municipal court shall cease.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.48 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 43, eff. Sept. 1, 1999.

Art. 45.044. FORFEITURE OF CASHBOND IN SATISFACTION OF FINE.

(a) A justice or judge may enter a judgment of conviction and forfeit a cash bond posted by the defendant in satisfaction of the defendant's fine and cost if the defendant:

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

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

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

(1) a judgment of conviction and forfeiture of bond was entered against the defendant on a date certain and the forfeiture

satisfies the defendant's fine and costs in the case; and

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

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

Added by Acts 1993, 73rd Leg., ch. 109, Sec. 1, eff. May 9, 1993. Renumbered from Vernon's Ann.C.C.P. art. 45.231 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 44, eff. Sept. 1, 1999.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 873 and S.B. 1139, 84th Legislature, Regular Session, for amendments affecting this section.

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

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

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

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

(A) the sophistication and maturity of the individual;

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

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

(3) the court has proceeded under Article [45.050](#) to compel the individual to discharge the judgment.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2991, ch. 987, Sec. 6, eff. June 15, 1971. Renumbered from Vernon's Ann.C.C.P. art. 45.51 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 45, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 283, Sec. 31, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. [3060](#)), Sec. 16, eff. September 1, 2007.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [873](#) and S.B. [1139](#), 84th Legislature, Regular Session, for amendments affecting this section.

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

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

(2) the defendant is indigent and:

(A) has failed to make a good faith effort to discharge the fines and costs under Article [45.049](#); and

(B) could have discharged the fines and costs under Article [45.049](#) without experiencing any undue hardship.

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

(c) For purposes of a hearing described by Subsection (a), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the

defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2991, ch. 987, Sec. 7, eff. June 15, 1971. Renumbered from Vernon's Ann.C.C.P. art. 45.52 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 46, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. 3060), Sec. 19, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 474 (S.B. 414), Sec. 2, eff. September 1, 2009.

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 47, eff. Sept. 1, 1999.

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

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

(2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 for each period of time served, as specified by the convicting court in the judgment in the case.

(b) A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fines and costs in the case must remain in jail to satisfy \$50 of the fine and costs.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1981, 67th Leg., p. 2648, ch. 708, Sec. 3, eff. Aug. 31, 1981. Renumbered from Vernon's Ann.C.C.P. art. 45.53 and amended by Acts 1999, 76th

Leg., ch. 1545, Sec. 48, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 872, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 65(a), eff. Jan. 1, 2004.

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

(b) In the justice's or judge's order requiring a defendant to participate in community service work under this article, the justice or judge must specify the number of hours the defendant is required to work.

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

(d) A justice or judge may not order a defendant to perform more than 16 hours per week of community service under this article unless the justice or judge determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(e) A defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed under this article.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising

from an act or failure to act in connection with manual labor performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

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

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

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

(2) the county in which the defendant resides, but only if the entity or organization agrees to:

(A) supervise the defendant in the performance of the defendant's community service work; and

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

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

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

Added by Acts 1993, 73rd Leg., ch. 298, Sec. 1, eff. May 27, 1993.  
Renumbered from Vernon's Ann.C.C.P. art. 45.521 and amended by Acts

1999, 76th Leg., ch. 1545, Sec. 49, eff. Sept. 1, 1999; Subsec. (e) amended by Acts 2003, 78th Leg., ch. 209, Sec. 66(a), eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1113 (H.B. [3692](#)), Sec. 5.

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. [3060](#)), Sec. 17, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 27.001(2), eff. September 1, 2009.

Art. 45.0491. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN. A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article [45.058](#)(h); and

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. [3060](#)), Sec. 18, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1320 (S.B. [395](#)), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. [393](#)), Sec. 6, eff. September 1, 2013.

Text of article as added by Acts 2011, 82nd Leg., R.S., Ch. 227  
(H.B. [350](#)), Sec. 1

For text of article as added by Acts 2011, 82nd Leg., R.S., Ch. 777  
(H.B. [1964](#)), Sec. 1, see other Art. 45.0492.

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

which the defendant was enrolled at the time of the offense.

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

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

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

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

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

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

(h) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace,

municipal court judge, officer or employee of a political subdivision other than a county, nonprofit organization, or tutoring program is not liable for damages arising from an act or failure to act in connection with an activity performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 227 (H.B. 350), Sec. 1, eff. September 1, 2011.

Text of article as added by Acts 2011, 82nd Leg., R.S., Ch. 777

(H.B. 1964), Sec. 1

For text of article as added by Acts 2011, 82nd Leg., R.S., Ch. 227

(H.B. 350), Sec. 1, see other Art. 45.0492.

Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a) This article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor.

(b) A justice or judge may require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

(c) In the justice's or judge's order requiring a defendant to perform community service under this article, the justice or judge shall specify the number of hours of service the defendant is required to perform and may not order more than 200 hours of service.

(d) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the

general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(e) A justice or judge may not order a defendant to perform more than 16 hours of community service per week under this article unless the justice or judge determines that requiring additional hours of work does not cause a hardship on the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned by Section [71.003](#), Family Code.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 777 (H.B. [1964](#)), Sec. 1, eff. September 1, 2011.

Art. 45.050. FAILURE TO PAY FINE; CONTEMPT: JUVENILES. (a) In this article, "child" has the meaning assigned by Article [45.058](#)(h).

(b) A justice or municipal court may not order the confinement of a child for:

(1) the failure to pay all or any part of a fine or costs imposed for the conviction of an offense punishable by fine only;

or

(2) contempt of another order of a justice or municipal court.

(c) If a child fails to obey an order of a justice or municipal court under circumstances that would constitute contempt of court, the justice or municipal court, after providing notice and an opportunity to be heard, may:

(1) refer the child to the appropriate juvenile court for delinquent conduct for contempt of the justice or municipal court order; or

(2) retain jurisdiction of the case, hold the child in contempt of the justice or municipal court, and order either or both of the following:

(A) that the contemnor pay a fine not to exceed \$500; or

(B) that the Department of Public Safety suspend the contemnor's driver's license or permit or, if the contemnor does not have a license or permit, to deny the issuance of a license or permit to the contemnor until the contemnor fully complies with the orders of the court.

(d) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if:

(1) the person was convicted for an offense committed before the person's 17th birthday;

(2) the person failed to obey the order while the person was 17 years of age or older; and

(3) the failure to obey occurred under circumstances that constitute contempt of court.

(e) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if the person, while younger than 17 years of age, engaged in conduct in contempt of an order issued by the justice or municipal court, but contempt proceedings could not be held before the person's 17th birthday.

(f) A court that orders suspension or denial of a driver's license or permit under Subsection (c)(2)(B) shall notify the Department of Public Safety on receiving proof of compliance with the orders of the court.

(g) A justice or municipal court may not refer a child who

violates a court order while 17 years of age or older to a juvenile court for delinquency proceedings for contempt of court.

Added by Acts 1995, 74th Leg., ch. 262, Sec. 86, eff. Jan. 1, 1996. Subsec. (b) amended by Acts 1999, 76th Leg., ch. 76, Sec. 7, eff. Sept. 1, 1999. Renumbered from Vernon's Ann.C.C.P. art. 45.522 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 49, eff. Sept. 1, 1999. Subsec. (b) amended by Acts 2001, 77th Leg., ch. 1297, Sec. 51, eff. Sept. 1, 2001. Amended by Acts 2001, 77th Leg., ch. 1514, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 283, Sec. 32, eff. Sept. 1, 2003.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [642](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. In issuing the order of deferral, the judge may impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The special expense fee may be collected at any time before the date on which the period of probation ends. The judge may elect not to impose the special expense fee for good cause shown by the defendant. If the judge orders the collection of a special expense fee, the judge shall require that the amount of the special expense fee be credited toward the payment of the amount of the fine imposed by the judge. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 227 (H.B. [350](#)), Sec. 2

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

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

(2) require an eligible defendant to discharge all or part of those costs by performing community service or attending a tutoring program under Article [45.049](#) or [45.0492](#); or

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

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 777  
(H.B. [1964](#)), Sec. 2

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

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

(2) require an eligible defendant to discharge all or part of those costs by performing community service under Article [45.049](#) or [45.0492](#); or

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

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

(1) post a bond in the amount of the fine assessed to secure payment of the fine;

(2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;

(3) submit to professional counseling;

(4) submit to diagnostic testing for alcohol or a

controlled substance or drug;

(5) submit to a psychosocial assessment;

(6) participate in an alcohol or drug abuse treatment or education program;

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

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

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

(10) comply with any other reasonable condition.

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

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

(2) during the deferral period, the judge:

(A) shall require the defendant to complete a driving safety course approved under Chapter 1001, Education Code; and

(B) may require the defendant to complete an additional driving safety course designed for drivers younger than 25 years of age and approved under Section [1001.111](#), Education Code; and

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

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

(b-3) The fee collected under Subsection (b-2) must be deposited to the credit of a special account in the general revenue

fund and may be used only by the Department of Public Safety for the administration of Chapter 521, Transportation Code.

(c) On determining that the defendant has complied with the requirements imposed by the judge under this article, the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.

(c-1) If the defendant fails to present within the deferral period satisfactory evidence of compliance with the requirements imposed by the judge under this article, the court shall:

(1) notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and

(2) require the defendant to appear at the time and place stated in the notice to show cause why the order of deferral should not be revoked.

(c-2) On the defendant's showing of good cause for failure to present satisfactory evidence of compliance with the requirements imposed by the judge under this article, the court may allow an additional period during which the defendant may present evidence of the defendant's compliance with the requirements.

(d) If on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge may impose the fine assessed or impose a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant. This subsection does not apply to a defendant required under Subsection (b-1) to complete a driving safety course approved under Chapter 1001, Education Code, or an examination under Section [521.161\(b\)\(2\)](#), Transportation Code.

(d-1) If the defendant was required to complete a driving safety course or an examination under Subsection (b-1) and on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present satisfactory

evidence that the defendant completed that course or examination, the judge shall impose the fine assessed. The imposition of the fine constitutes a final conviction of the defendant.

(e) Records relating to a complaint dismissed as provided by this article may be expunged under Article [55.01](#). If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

(f) This article does not apply to:

(1) an offense to which Section [542.404](#), Transportation Code, applies; or

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

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

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

Added by Acts 1981, 67th Leg., p. 894, ch. 318, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 226, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 399, Sec. 1, eff. June 14, 1989. Subsec. (1) amended by Acts 1991, 72nd Leg., ch. 775, Sec. 19, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., ch. 835, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 5.07, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 532, Sec. 1, eff. Sept. 1, 1999; 1999, 76th Leg., ch. 1387, Sec. 1, eff. Sept. 1, 1999. Renumbered from Vernon's Ann.C.C.P. art. 45.54 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 50, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 3.002, eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 991, Sec. 12, eff. Sept. 1, 2003; Amended by Acts 2003, 78th Leg., ch. 1182, Sec. 1, eff. Sept. 1, 2003; Subsec. (c) amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 4.01, eff. Jan. 11, 2004; Subsec. (c-1) amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 4.03, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 90 (S.B. [1005](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 3.01(a), eff.

June 14, 2005.

Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 508 (S.B. [545](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 714 (H.B. [2267](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 3.001, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1121 (H.B. [1544](#)), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 227 (H.B. [350](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 777 (H.B. [1964](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 914 (S.B. [1330](#)), Sec. 1, eff. January 1, 2012.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [1786](#), 84th Legislature, Regular Session, for amendments affecting this section.

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

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

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

(3) is defined by:

(A) Section [472.022](#), Transportation Code;

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

(C) Section [729.001](#)(a)(3), Transportation Code.

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

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

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

(3) is classified as a moving violation.

(b) The judge shall require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if:

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

(2) the defendant:

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

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

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

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

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

(4) the defendant:

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

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

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

(A) 95 miles per hour or more; or

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

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

(c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:

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

(2) unless the judge proceeds under Subsection (c-1), the defendant's driving record as maintained by the Department of Public Safety, if any, showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense;

(3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense; and

(4) if the defendant does not have a valid Texas driver's license or permit and is a member, or the spouse or dependent child of a member, of the United States military forces serving on active duty, an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as appropriate, in another state on the date the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense.

(c-1) In this subsection, "state electronic Internet portal" has the meaning assigned by Section [2054.003](#), Government Code. As an alternative to receiving the defendant's driving record under Subsection (c)(2), the judge, at the time the defendant requests a driving safety course or motorcycle operator training course dismissal under this article, may require the defendant to pay a fee in an amount equal to the sum of the amount of

the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal fee and, using the state electronic Internet portal, may request the Texas Department of Public Safety to provide the judge with a copy of the defendant's driving record that shows the information described by Section 521.047(b), Transportation Code. As soon as practicable and using the state electronic Internet portal, the Texas Department of Public Safety shall provide the judge with the requested copy of the defendant's driving record. The fee authorized by this subsection is in addition to any other fee required under this article. If the copy of the defendant's driving record provided to the judge under this subsection shows that the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense, the judge shall allow the defendant to complete the appropriate course as provided by this article. The custodian of a municipal or county treasury who receives fees collected under this subsection shall keep a record of the fees and, without deduction or proration, forward the fees to the comptroller, with and in the manner required for other fees and costs received in connection with criminal cases. The comptroller shall credit fees received under this subsection to the Texas Department of Public Safety.

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

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

(f) In addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, the court may:

(1) require a defendant requesting a course under Subsection (b) to pay an administrative fee set by the court to cover the cost of administering this article at an amount of not more than \$10; or

(2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the

maximum amount of the fine for the offense committed by the defendant.

(g) A defendant who requests but does not take a course is not entitled to a refund of the fee.

(h) Fees collected by a municipal court shall be deposited in the municipal treasury. Fees collected by another court shall be deposited in the county treasury of the county in which the court is located.

(i) If a defendant requesting a course under this article fails to comply with Subsection (c), the court shall:

(1) notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and

(2) require the defendant to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) If the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), the court shall enter an adjudication of guilt and impose sentence.

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

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

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

(1) When a defendant complies with Subsection (c), the court shall:

(1) remove the judgment and dismiss the charge;

(2) report the fact that the defendant successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and

(3) state in that report whether the course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

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

(n) A charge that is dismissed under this article may not be part of a person's driving record or used for any purpose.

(o) An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged an insured under the policy because the insured completed a driving safety course or a motorcycle operator training course, or had a charge dismissed under this article.

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

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

(2) a serious traffic violation; or

(3) an offense to which Section 542.404, Transportation Code, applies.

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

"You may be able to require that this charge be dismissed by

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

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

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

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

(2) held a commercial driver's license when the offense was committed.

(t) An order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge.

(u) The requirement of Subsection (b)(2) does not apply to a defendant charged with an offense under Section [545.412](#), Transportation Code, if the judge requires the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course that includes four hours of instruction that encourages the use of child passenger safety seat systems, and any driving safety course taken by the defendant under this section within the 12 months preceding the date of the offense did not include that training. The person's driving record under Subsection (c)(2) and the affidavit of the defendant under Subsection (c)(3) is required to include only previous or concurrent courses that included that training.

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 51, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 3.0021(a), eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 991, Sec. 13, eff. Sept. 1, 2003; Amended by Acts 2003, 78th Leg., ch. 1182, Sec. 2, eff. Sept. 1, 2003; Subsecs. (e), (1) to (t) amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 4.02, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 90 (S.B. [1005](#)), Sec. 2, eff.

September 1, 2005.

Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 7, eff.  
September 1, 2005.

Acts 2005, 79th Leg., Ch. 913 (H.B. [183](#)), Sec. 6, eff.  
September 1, 2005.

Acts 2005, 79th Leg., Ch. 1194 (H.B. [370](#)), Sec. 1, eff.  
September 1, 2005.

Acts 2005, 79th Leg., Ch. 1209 (H.B. [703](#)), Sec. 1, eff.  
September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 805 (S.B. [1083](#)), Sec. 1, eff.  
September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 829 (H.B. [586](#)), Sec. 1, eff.  
September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. [1504](#)), Sec. 1, eff.  
June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 3.009,  
eff. September 1, 2013.

This article was amended by the 84th Legislature. Pending  
publication of the current statutes, see S.B. [108](#), 84th  
Legislature, Regular Session, for amendments affecting this  
section.

Art. 45.052. DISMISSAL OF MISDEMEANOR CHARGE ON COMPLETION OF  
TEEN COURT PROGRAM. (a) A justice or municipal court may defer  
proceedings against a defendant who is under the age of 18 or  
enrolled full time in an accredited secondary school in a program  
leading toward a high school diploma for not more than 180 days if  
the defendant:

(1) is charged with an offense that the court has  
jurisdiction of under Article [4.11](#) or [4.14](#), Code of Criminal  
Procedure;

(2) pleads nolo contendere or guilty to the offense in open  
court with the defendant's parent, guardian, or managing  
conservator present;

(3) presents to the court an oral or written request to attend  
a teen court program; and

(4) has not successfully completed a teen court program in

the two years preceding the date that the alleged offense occurred.

(b) The teen court program must be approved by the court.

(c) A defendant for whom proceedings are deferred under Subsection (a) shall complete the teen court program not later than the 90th day after the date the teen court hearing to determine punishment is held or the last day of the deferral period, whichever date is earlier. The justice or municipal court shall dismiss the charge at the time the defendant presents satisfactory evidence that the defendant has successfully completed the teen court program.

(d) A charge dismissed under this article may not be part of the defendant's criminal record or driving record or used for any purpose. However, if the charge was for a traffic offense, the court shall report to the Department of Public Safety that the defendant successfully completed the teen court program and the date of completion for inclusion in the defendant's driving record.

(e) The justice or municipal court may require a person who requests a teen court program to pay a fee not to exceed \$10 that is set by the court to cover the costs of administering this article. Fees collected by a municipal court shall be deposited in the municipal treasury. Fees collected by a justice court shall be deposited in the county treasury of the county in which the court is located. A person who requests a teen court program and fails to complete the program is not entitled to a refund of the fee.

(f) A court may transfer a case in which proceedings have been deferred under this section to a court in another county if the court to which the case is transferred consents. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(g) In addition to the fee authorized by Subsection (e) of this article, the court may require a child who requests a teen court program to pay a \$10 fee to cover the cost to the teen court for performing its duties under this article. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursement of the fee. A child who pays a fee under this subsection is not entitled to a refund of the fee, regardless of whether the child successfully

completes the teen court program.

(h) A justice or municipal court may exempt a defendant for whom proceedings are deferred under this article from the requirement to pay a court cost or fee that is imposed by another statute.

(i) Notwithstanding Subsection (e) or (g), a justice or municipal court that is located in the Texas-Louisiana border region, as defined by Section [2056.002](#), Government Code, may charge a fee of \$20 under those subsections.

Added by Acts 1989, 71st Leg., ch. 1031, Sec. 1, eff. Sept. 1, 1989. Subsec. (g) added by Acts 1995, 74th Leg., ch. 598, Sec. 1, eff. Sept. 1, 1995; added by Acts 1995, 74th Leg., ch. 748, Sec. 2, eff. Sept. 1, 1995; Subsec. (h) relettered from Subsec. (g) by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(13), eff. Sept. 1, 1997; Subsecs. (a), (f) amended by Acts 1999, 76th Leg., ch. 76, Sec. 6, eff. Sept. 1, 1999. Renumbered from Vernon's Ann.C.C.P. art. 45.55 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 52, eff. Sept. 1, 1999. Subsec. (a) amended by Acts 2001, 77th Leg., ch. 216, Sec. 1, eff. Sept. 1, 2001; Subsec. (c) amended by Acts 2001, 77th Leg., ch. 216, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 910 (H.B. [2949](#)), Sec. 1, eff. September 1, 2007.

Art. 45.053. DISMISSAL OF MISDEMEANOR CHARGE ON COMMITMENT OF CHEMICALLY DEPENDENT PERSON. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by a fine only, a justice or municipal court may defer further proceedings for 90 days without entering an adjudication of guilt if:

(1) the court finds that the offense resulted from or was related to the defendant's chemical dependency; and

(2) an application for court-ordered treatment of the defendant is filed in accordance with Chapter 462, Health and Safety Code.

(b) At the end of the deferral period, the justice or municipal court shall dismiss the charge if satisfactory evidence

is presented that the defendant was committed for and completed court-ordered treatment in accordance with Chapter 462, Health and Safety Code, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.

(c) If at the conclusion of the deferral period satisfactory evidence that the defendant was committed for and completed court-ordered treatment in accordance with Chapter 462, Health and Safety Code, is not presented, the justice or municipal court may impose the fine assessed or impose a lesser fine. The imposition of a fine constitutes a final conviction of the defendant.

(d) Records relating to a complaint dismissed under this article may be expunged under Article 55.01 of this code. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

Added by Acts 1991, 72nd Leg., ch. 198, Sec. 1, eff. Sept. 1, 1991.  
Renumbered from Vernon's Ann.C.C.P. art. 45.56 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 53, eff. Sept. 1, 1999.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2398, 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.054. FAILURE TO ATTEND SCHOOL PROCEEDINGS. (a) On a finding by a county, justice, or municipal court that an individual has committed an offense under Section 25.094, Education Code, the court has jurisdiction to enter an order that includes one or more of the following provisions requiring that:

(1) the individual:

(A) attend school without unexcused absences;

(B) attend a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, if the court determines that the individual is too old to do well in a formal classroom environment; or

(C) if the individual is at least 16 years of age, take the high school equivalency examination administered under Section 7.111, Education Code;

(2) the individual attend a special program that the court determines to be in the best interest of the individual, including:

- (A) an alcohol and drug abuse program;
- (B) a rehabilitation program;
- (C) a counseling program, including self-improvement counseling;
- (D) a program that provides training in self-esteem and leadership;
- (E) a work and job skills training program;
- (F) a program that provides training in parenting, including parental responsibility;
- (G) a program that provides training in manners;
- (H) a program that provides training in violence avoidance;
- (I) a program that provides sensitivity training; and
- (J) a program that provides training in advocacy and mentoring;

(3) the individual and the individual's parent attend a class for students at risk of dropping out of school designed for both the individual and the individual's parent;

(4) the individual complete reasonable community service requirements; or

(5) for the total number of hours ordered by the court, the individual participate in a tutorial program covering the academic subjects in which the student is enrolled provided by the school the individual attends.

(a-1) On a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Section [25.094](#), Education Code, the court has jurisdiction to enter an order that includes one or more of the provisions listed under Subsection (a).

(a-2) An order under Subsection (a) may not require a student to attend a juvenile justice alternative education program.

(b) An order under Subsection (a)(3) that requires the parent of an individual to attend a class for students at risk of dropping out of school is enforceable in the justice, municipal, or juvenile court by contempt.

(c) A court having jurisdiction under this article shall

endorse on the summons issued to the parent of the individual who is the subject of the hearing an order directing the parent to appear personally at the hearing and directing the person having custody of the individual to bring the individual to the hearing.

(d) An individual commits an offense if the individual is a parent who fails to attend a hearing under this article after receiving notice under Subsection (c) that the individual's attendance is required. An offense under this subsection is a Class C misdemeanor.

(e) On the commencement of proceedings under this article, the court shall inform the individual who is the subject of the hearing and the individual's parent in open court of the individual's expunction rights and provide the individual and the individual's parent with a written copy of Article [45.055](#).

(f) In addition to any other order authorized by this article, the court may order the Department of Public Safety to suspend the driver's license or permit of the individual who is the subject of the hearing or, if the individual does not have a license or permit, to deny the issuance of a license or permit to the individual for a period specified by the court not to exceed 365 days.

(g) A dispositional order under this article is effective for the period specified by the court in the order but may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

(h) In this article, "parent" includes a person standing in parental relation.

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section [25.094](#), Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

(j) A county, justice, or municipal court may waive or reduce a fee or court cost imposed under this article if the court finds that payment of the fee or court cost would cause financial hardship.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001. Subsec. (a) amended by Acts 2003, 78th Leg., ch. 137, Sec. 14, eff. Sept. 1, 2003; Subsec. (a-1) added and Subsec. (b) amended by Acts 2003, 78th Leg., ch. 180, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 908 (H.B. [2884](#)), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1098 (S.B. [1489](#)), Sec. 6, eff. September 1, 2011.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2398](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.055. EXPUNCTION OF CONVICTION AND RECORDS IN FAILURE TO ATTEND SCHOOL CASES. (a) Except as provided by Subsection (e), an individual convicted of not more than one violation of Section [25.094](#), Education Code, may, on or after the individual's 18th birthday, apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged.

(b) To apply for an expunction, the applicant must submit a written request that:

- (1) is made under oath;
- (2) states that the applicant has not been convicted of more than one violation of Section [25.094](#), Education Code; and
- (3) is in the form determined by the applicant.

(c) The court may expunge the conviction and records relating to the conviction without a hearing or, if facts are in doubt, may order a hearing on the application. If the court finds that the applicant has not been convicted of more than one violation of Section [25.094](#), Education Code, the court shall order the conviction, together with all complaints, verdicts, sentences, and

other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the applicant's record. After entry of the order, the applicant is released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose. The court shall inform the applicant of the court's decision on the application.

(d) The court shall require an individual who files an application under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expunction under this article.

(e) A court shall expunge an individual's conviction under Section [25.094](#), Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under Article [45.054](#); or

(2) before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001.  
Subsec. (d) amended by Acts 2003, 78th Leg., ch. 137, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 886 (S.B. [1426](#)), Sec. 3, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1098 (S.B. [1489](#)), Sec. 7, eff. September 1, 2011.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2398](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.056. JUVENILE CASE MANAGERS.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1213 (S.B. [1419](#)), Sec. 1

(a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;

(2) employ one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager to provide services described by Subdivisions (1) and (2).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1407 (S.B. [393](#)), Sec. 7

(a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or

(2) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers from funds appropriated to the governor's office or otherwise available for that purpose. To be eligible for reimbursement, the entity applying must present to the governor's office a comprehensive plan to reduce juvenile crimes in the entity's jurisdiction that addresses the role of the case manager in that effort.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1213 (S.B. [1419](#)), Sec. 1

(c) An entity that jointly employs a case manager under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1407 (S.B. [393](#)), Sec. 7

(c) A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers who:

(1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and

(2) may provide:

(A) prevention services to a child considered at-risk of entering the juvenile justice system; and

(B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.

(d) Pursuant to Article [102.0174](#), the court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1098 (S.B. [1489](#)), Sec. 16, eff. September 1, 2011.

(e) A juvenile case manager employed under Subsection (c) shall give priority to cases brought under Sections [25.093](#) and [25.094](#), Education Code.

(f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:

(1) a code of ethics, and for the enforcement of the code of ethics;

(2) appropriate educational preservice and in-service training standards for juvenile case managers; and

(3) training in:

(A) the role of the juvenile case manager;

(B) case planning and management;

(C) applicable procedural and substantive law;

(D) courtroom proceedings and presentation;

(E) services to at-risk youth under Subchapter D, Chapter 264, Family Code;

(F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and

(G) detecting and preventing abuse, exploitation, and neglect of juveniles.

(g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).

(h) The commissioners court or governing body of the municipality that administers a juvenile case manager fund under Article [102.0174](#) shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f).

(i) The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

(j) The judge who is assigned to the case shall consult with the juvenile case manager who is supervising the case regarding:

- (1) the child's home environment;
- (2) the child's developmental, psychological, and educational status;
- (3) the child's previous interaction with the justice system; and
- (4) any sanctions available to the court that would be in the best interest of the child.

(k) Subsections (i) and (j) do not apply to:

- (1) a part-time judge; or
- (2) a county judge of a county court that has one or more appointed full-time magistrates under Section [54.1172](#), Government Code.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001.  
Amended by Acts 2003, 78th Leg., ch. 283, Sec. 33, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. [1575](#)), Sec. 34, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 868 (S.B. [61](#)), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 868 (S.B. [61](#)), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1055 (S.B. [209](#)), Sec. 1, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1098 (S.B. [1489](#)), Sec. 16, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.001(8), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.002(4), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1213 (S.B. [1419](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. [393](#)), Sec. 7, eff. September 1, 2013.

Art. 45.057. OFFENSES COMMITTED BY JUVENILES. (a) In this article:

(1) "Child" has the meaning assigned by Article [45.058](#)(h).

(2) "Residence" means any place where the child lives or resides for a period of at least 30 days.

(3) "Parent" includes a person standing in parental relation, a managing conservator, or a custodian.

(b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article [4.11](#) or [4.14](#), the court has jurisdiction to enter an order:

(1) referring the child or the child's parent for services under Section [264.302](#), Family Code;

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program; or

(3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the

court and that is reasonable and necessary for the welfare of the child, including:

(A) attend a parenting class or parental responsibility program; and

(B) attend the child's school classes or functions.

(c) The justice or municipal court may order the parent, managing conservator, or guardian of a child required to attend a program under Subsection (b) to pay an amount not greater than \$100 to pay for the costs of the program.

(d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this article to submit proof of attendance to the court.

(e) A justice or municipal court shall endorse on the summons issued to a parent an order to appear personally at the hearing with the child. The summons must include a warning that the failure of the parent to appear may result in arrest and is a Class C misdemeanor.

(f) An order under this article involving a child is enforceable under Article [45.050](#).

(g) A person commits an offense if the person is a parent, managing conservator, or guardian who fails to attend a hearing under this article after receiving an order under Subsection (e). An offense under this subsection is a Class C misdemeanor.

(h) A child and parent required to appear before the court have an obligation to provide the court in writing with the current address and residence of the child. The obligation does not end when the child reaches age 17. On or before the seventh day after the date the child or parent changes residence, the child or parent shall notify the court of the current address in the manner directed by the court. A violation of this subsection may result in arrest and is a Class C misdemeanor. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt.

(i) If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice under

Subsection (h) to the appellate court.

(j) The child and parent are entitled to written notice of their obligation under Subsections (h) and (i), which may be satisfied by being given a copy of those subsections by:

(1) the court during their initial appearance before the court;

(2) a peace officer arresting and releasing a child under Article 45.058(a) on release; and

(3) a peace officer that issues a citation under Section 543.003, Transportation Code, or Article 14.06(b) of this code.

(k) It is an affirmative defense to prosecution under Subsection (h) that the child and parent were not informed of their obligation under this article.

(l) Any order under this article is enforceable by the justice or municipal court by contempt.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001. Subsecs. (a), (b), (e), (h) amended by Acts 2003, 78th Leg., ch. 283, Sec. 34, eff. Sept. 1, 2003. Subsecs. (i) to (l) added by Acts 2003, 78th Leg., ch. 283, Sec. 34, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 777 (H.B. 1964), Sec. 3, eff. September 1, 2011.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 108, 84th Legislature, Regular Session, for amendments affecting this section.

Art. 45.058. CHILDREN TAKEN INTO CUSTODY. (a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided by Section 52.02(a)(1), Family Code, if the child is taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

(b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:

(1) is released under Section 52.02(a)(1), Family Code; or

(2) is taken before a justice or municipal court.

(c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025, Family Code, if the area is not locked when it is used as a place of nonsecure custody.

(d) The following procedures shall be followed in a place of nonsecure custody for children:

(1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;

(2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, secure detention facility, justice court, or municipal court;

(3) residential use of the area is prohibited; and

(4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.

(e) Notwithstanding any other provision of this article, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.

(f) A child taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14 may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3), Family Code, only if:

(1) the child's non-traffic case is transferred to the juvenile court by a justice or municipal court under Section 51.08(b), Family Code; or

(2) the child is referred to the juvenile court by a justice or municipal court for contempt of court under Article 45.050.

(g) Except as provided by Subsection (g-1), a law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a

traffic offense or an offense punishable by fine only.

(g-1) A law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for conduct constituting a violation of Section 49.02, Penal Code, only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult.

(h) In this article, "child" means a person who is:

(1) at least 10 years of age and younger than 17 years of age; and

(2) charged with or convicted of an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

(i) If a law enforcement officer issues a citation or files a complaint in the manner provided by Article 45.018 for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district, the officer shall submit to the court the offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any. An attorney representing the state may not proceed in a trial of an offense unless the law enforcement officer complied with the requirements of this subsection.

(j) Notwithstanding Subsection (g) or (g-1), a law enforcement officer may not issue a citation or file a complaint in the manner provided by Article 45.018 for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 311 (H.B. 558), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 1, eff. September 1, 2013.

Art. 45.059. CHILDREN TAKEN INTO CUSTODY FOR VIOLATION OF JUVENILE CURFEW OR ORDER. (a) A peace officer taking into custody a person younger than 17 years of age for violation of a juvenile

curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay:

(1) release the person to the person's parent, guardian, or custodian;

(2) take the person before a justice or municipal court to answer the charge; or

(3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person.

(b) A juvenile curfew processing office must observe the following procedures:

(1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area;

(2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object;

(3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to a parent, guardian, or custodian, or arrangement of transportation to school or court;

(4) a juvenile curfew processing office may not be designated or intended for residential purposes;

(5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and

(6) a person may not be held in a juvenile curfew processing office for more than six hours.

(c) A place designated under this article as a juvenile curfew processing office is not subject to the approval of the juvenile board having jurisdiction where the governmental entity is located.

Added by Acts 2001, 77th Leg., ch. 1514, Sec. 9, eff. Sept. 1, 2001.

Art. 45.060. UNADJUDICATED CHILDREN, NOW ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE. (a) Except as provided by Articles [45.058](#) and [45.059](#), an individual may not be taken into secured custody for offenses alleged to have occurred before the

individual's 17th birthday.

(b) On or after an individual's 17th birthday, if the court has used all available procedures under this chapter to secure the individual's appearance to answer allegations made before the individual's 17th birthday, the court may issue a notice of continuing obligation to appear by personal service or by mail to the last known address and residence of the individual. The notice must order the individual to appear at a designated time, place, and date to answer the allegations detailed in the notice.

(c) Failure to appear as ordered by the notice under Subsection (b) is a Class C misdemeanor independent of Section 38.10, Penal Code, and Section 543.003, Transportation Code.

(d) It is an affirmative defense to prosecution under Subsection (c) that the individual was not informed of the individual's obligation under Articles 45.057(h) and (i) or did not receive notice as required by Subsection (b).

(e) A notice of continuing obligation to appear issued under this article must contain the following statement provided in boldfaced type or capital letters:

"WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST."

Added by Acts 2003, 78th Leg., ch. 283, Sec. 35, eff. Sept. 1, 2003.

Art. 45.061. PROCEEDINGS CONCERNING ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR. (a) In this article, "parent" means a natural or adoptive parent, managing or possessory conservator, or legal guardian. The term does not include a parent whose parental rights have been terminated.

(b) If a justice or municipal court finds that a defendant has committed an offense under Section 43.261, Penal Code, the court may enter an order requiring the defendant to attend and successfully complete an educational program described by Section

37.218, Education Code, or another equivalent educational program.

(c) A court that enters an order under Subsection (b) shall require the defendant or the defendant's parent to pay the cost of attending an educational program under Subsection (b) if the court determines that the defendant or the defendant's parent is financially able to make payment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 15, eff. September 1, 2011.

#### SUBCHAPTER C. PROCEDURES IN JUSTICE COURT

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

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

Added by Acts 1999, 76th Leg., ch. 1545, Sec. 55, eff. Sept. 1, 1999.

Art. 45.102. OFFENSES COMMITTED IN ANOTHER COUNTY. Whenever complaint is made before any justice of the peace that a felony has been committed in any other than a county in which the complaint is made, the justice shall issue a warrant for the arrest of the accused, directed as in other cases, commanding that the accused be arrested and taken before any magistrate of the county where such felony is alleged to have been committed, forthwith, for examination as in other cases.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from Vernon's Ann.C.C.P. art. 45.21 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 56, eff. Sept. 1, 1999.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Renumbered from

Vernon's Ann.C.C.P. art. 45.15 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 57, eff. Sept. 1, 1999.

#### SUBCHAPTER D. PROCEDURES IN MUNICIPAL COURT

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

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

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

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1987, 70th Leg., ch. 923, Sec. 1, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.C.C.P. art. 45.03 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 59, eff. Sept. 1, 1999.

Art. 45.202. SERVICE OF PROCESS. (a) All process issuing out of a municipal court may be served and shall be served when directed by the court, by a peace officer or marshal of the municipality within which it is situated, under the same rules as are provided by law for the service by sheriffs and constables of process issuing out of the justice court, so far as applicable.

(b) The peace officer or marshal may serve all process issuing out of a municipal court anywhere in the county in which the municipality is situated. If the municipality is situated in more than one county, the peace officer or marshal may serve the process throughout those counties.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1171, ch. 523, Sec. 1, eff. Aug. 28, 1967. Renumbered

from Vernon's Ann.C.C.P. art. 45.04 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 60, eff. Sept. 1, 1999.

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

- (1) execution against the property of the defendant; or
- (2) imprisonment of the defendant.

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

(c) The governing body of each municipality may prescribe by ordinance the collection, after due notice, of a special expense, not to exceed \$25 for the issuance and service of a warrant of arrest for an offense under Section 38.10, Penal Code, or Section 543.009, Transportation Code. Money collected from the special expense shall be paid into the municipal treasury for the use and benefit of the municipality.

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

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1983, 68th Leg., p. 2140, ch. 389, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 124, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 76, Sec. 14.26, eff. Sept. 1, 1995. Renumbered from Vernon's Ann.C.C.P. art. 45.06 and amended by Acts 1999, 76th Leg., ch. 1545, Sec. 61, eff. Sept. 1, 1999.