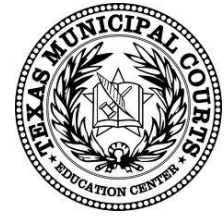


THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (June 2018)

Discharging the Judgment Fines and Court Costs

Let's Recap.

In Texas, when a person accused of a Class C misdemeanor is convicted in municipal court, the judgment and sentence is that the defendant pays the fine and court costs.

Fines are punishment. Court costs are supposed to defray governmental expense and are not an intended punishment. However, as illustrated in the January issue of *The Brief*, even a one dollar fine has the potential to snowball into a debt of more than a hundred dollars when combined with state mandated court costs and a litany of additional statutorily authorized fees.

In 2017, nearly \$634 million in fines and costs were collected by municipal courts. Roughly 70 percent was retained by cities and the rest was remitted to the state.

For most of the past two decades, discussions in government about discharging municipal court judgments have predominantly focused on collecting money. This made it easy for critics to claim that municipal governments care more about revenue generation than either justice or public perception. The critics' arguments were bolstered by the fact that Texas law afforded judges few options and limited discretion in matters pertaining to court costs (even in cases involving indigent and low income defendants).

State Government and Support for Changes in Law

Texas law governing how criminal defendants discharge fines and costs has changed more in the last year than it has in the last quarter century. At the core of these changes is a tacit admission by state government that criminal court judgments, particularly in cases involving indigent and low income defendants, have the potential to trigger an avalanche of court costs. H.B. 351 and S.B. 1913 give municipal judges an unprecedented amount of discretion to decide how a defendant may discharge a judgment (installment payments, community service, full or partial waiver, or any combination when a defendant is unable to pay *either* the fine *or* court costs).

Municipal Government and Support for Changes in Law

The job of a judge is to do individual justice in individual cases.

H.B 351 and S.B 1913 provide more opportunities for individual justice in individual cases. Implementing changes in law is no easy task. However the task is easier when municipal courts have the support of mayors, city council members, other local officials, and city staff.

One way that a municipality can support implementation of the recent changes in law, is by helping the court identify opportunities for eligible defendants to discharge their judgment via community service.

Community Service “Reimagined”

The expansion of community service has the potential to benefit all communities in Texas and may be of particular benefit in rural Texas where community service opportunities were hindered by the prior narrower definition.

Prior law limited community service to physical work (e.g., picking up garbage). The former law ignored that sometimes the interests of the community are best advanced by focusing on the individual circumstances of the defendant.

Under the new law, judges have more latitude to custom tailor its community service orders to benefit both the defendant and the community. Community service has a broader meaning that includes attending (1) a work and job skills training program; (2) a preparatory class for the high school equivalency examination; (3) an alcohol or drug abuse program; (4) a rehabilitation program; (5) a counseling program, including a self-improvement program; (6) a mentoring program; or (7) any similar activity.

Under former law, community service could only be performed for a governmental or nonprofit organization. As amended, community service may also be performed for “another organization” or an “educational institution” that provides services to the general public that enhances social welfare and the general well-being of the community. Practically, this means the only limitation on whether an entity is qualified to be a community service provider is the discretion of a judge and whether the judge believes the entity provides services to the general public that enhances social welfare and the general well-being of the community.

***The Brief* is a periodic briefing for Texas mayors, city council members, and other local officials highlighting issues and increasing awareness and understanding of municipal courts in the Lone Star State. For more information visit: www.tmcec.com.**

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