

1 AN ACT

2 relating to the burden of proof in a community supervision
3 revocation hearing regarding a defendant's ability to make certain
4 court-ordered payments.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 21(c), Article 42.12, Code of Criminal
7 Procedure, is amended to read as follows:

8 (c) In a community supervision revocation hearing at which
9 it is alleged only that the defendant violated the conditions of
10 community supervision by failing to pay compensation paid to
11 appointed counsel, community supervision fees, or court costs,
12 ~~[restitution, or reparations,]~~ the state must prove by a
13 preponderance of the evidence that [inability of] the defendant was
14 able to pay and did not pay as ordered by the judge ~~[is an~~
15 ~~affirmative defense to revocation, which the defendant must prove~~
16 ~~by a preponderance of evidence]~~. The court may order a community
17 supervision and corrections department to obtain information
18 pertaining to the factors listed under Article 42.037(h) of this
19 code and include that information in the report required under
20 Section 9(a) of this article or a separate report, as the court
21 directs.

22 SECTION 2. The change in law made by this Act applies only
23 to a community supervision revocation hearing held on or after the
24 effective date of this Act.

H.B. No. 312

1 SECTION 3. This Act takes effect September 1, 2007.

David Neuhorst

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 312 was passed by the House on May 1, 2007, by the following vote: Yeas 123, Nays 20, 1 present, not voting.

Robert Nancy
Chief Clerk of the House

I certify that H.B. No. 312 was passed by the Senate on May 17, 2007, by the following vote: Yeas 31, Nays 0.

Datsy Spaw
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5 PM O'CLOCK

Roger Winnie
Secretary of State