

By: Wu

H.B. No. 497

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the deduction of a fee from certain funds withdrawn from
3 a court registry in certain criminal cases.

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

5 SECTION 1. Article 17.02, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a
8 written undertaking entered into by the defendant and the
9 defendant's sureties for the appearance of the principal therein
10 before a court or magistrate to answer a criminal accusation;
11 provided, however, that the defendant on execution of the bail bond
12 may deposit with the custodian of funds of the court in which the
13 prosecution is pending current money of the United States in the
14 amount of the bond in lieu of having sureties signing the same. Any
15 cash funds deposited under this article shall be receipted for by
16 the officer receiving the funds and, on order of the court, be
17 refunded in the amount shown on the face of the receipt less the
18 administrative fee authorized by Section 117.055, Local Government
19 Code, if applicable, after the defendant complies with the
20 conditions of the defendant's bond, to:

21 (1) any person in the name of whom a receipt was
22 issued, including the defendant if a receipt was issued to the
23 defendant; or

24 (2) the defendant, if no other person is able to

1 produce a receipt for the funds.

2 SECTION 2. Section 117.055, Local Government Code, is
3 amended by amending Subsection (a) and adding Subsections (a-1) and
4 (a-2) to read as follows:

5 (a) Except as provided by Subsection (a-1), to ~~[to]~~
6 compensate the county for the accounting and administrative
7 expenses incurred in handling the registry funds that have not
8 earned interest, including funds in a special or separate account,
9 the clerk shall, at the time of withdrawal, deduct from the amount
10 of the withdrawal a fee in an amount equal to five percent of the
11 withdrawal but that may not exceed \$50. Withdrawal of funds
12 generated from a case arising under the Family Code is exempt from
13 the fee deduction provided by this section.

14 (a-1) A clerk may not deduct a fee under Subsection (a) from
15 a withdrawal of funds generated by the collection of a cash bond or
16 cash bail bond if in the case for which the bond was taken:

17 (1) the defendant was found not guilty after a trial or
18 appeal; or

19 (2) the complaint, information, or indictment was
20 dismissed without a plea of guilty or nolo contendere being
21 entered.

22 (a-2) On the request of a person to whom withdrawn funds
23 generated by the collection of a cash bond or cash bail bond were
24 disbursed, the clerk shall refund to the person the amount of the
25 fee deducted under Subsection (a) if:

26 (1) subsequent to the deduction, a court makes or
27 enters an order or ruling in the case for which the bond was taken;

1 and

2 (2) had the court made or entered the order or ruling
3 before the withdrawal of funds occurred, the deduction under
4 Subsection (a) would have been prohibited under Subsection (a-1).

5 SECTION 3. The changes in law made by this Act apply only to
6 a withdrawal of funds from a court registry under Section 117.055,
7 Local Government Code, as amended by this Act, made on or after the
8 effective date of this Act. A withdrawal of funds from a court
9 registry made before the effective date of this Act is governed by
10 the law in effect on the date the withdrawal was made, and the
11 former law is continued in effect for that purpose.

12 SECTION 4. This Act takes effect September 1, 2021.