

## **BILL ANALYSIS**

S.B. 291  
By: West, Royce  
Judiciary  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Until the 78th Legislature, Regular Session, 2003, Texas court costs, fees, and penalties were scattered throughout Texas statutes, making it difficult to assess fees, especially when several costs were to be levied simultaneously. For ease of reference, S.B. 1180, 78th Legislature, Regular Session, added an index of these court costs, fees, and penalties to the Government Code.

As proposed, S.B. 291 updates the index to include fees that were overlooked in S.B. 1180. This bill provides for a complete and comprehensive list of the fees and costs currently in Texas statutes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 101.061, Government Code, to include the following fees and costs that the clerk of a district court is required to collect:

- (22-a)-(22-c) Certain child and spousal support service fees in certain counties, provided those fees are authorized by the appropriate entities; and attorney's fees of \$15 as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department.
- (36)-(38) A certain amount of court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate; monthly payments of a certain amount for remaining court fees and costs after the initial payment for that suit; and certain costs not otherwise charged to the inmate under Section 14.006 (Court Fees, Court Costs, Other Costs), Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous.
- (39) Fees for performing certain services.
  - (40) Certain court costs which may include certain expert witness fees.
- (41)-(42) A security deposit on filing, by certain persons, certain documents in relation to the estate, if required by the clerk; and a security deposit on filing by certain persons, certain documents in relation to a guardianship matter, if required by the clerk.
- (43) A fee of \$5 for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year.

Makes nonsubstantive changes.

SECTION 2. Amends Section 101.081, Government Code, to include the following fees and costs that the clerk of a statutory county court is required to collect:

- (23)-(25) A certain amount of court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate; monthly payments of a certain amount for remaining court fees and costs after the initial payment for that suit; and certain costs not otherwise charged to the inmate under Section 14.006 (Court Fees, Court Costs, Other Costs), Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous.
- (26)-(27) The official court reporter's fee taxed as costs in civil actions in certain statutory county courts in certain counties; and a stenographer's fee of \$25 as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County.
- (28)-(29) Certain fees, in Brazoria County and in Nueces County with certain exceptions, in matters of concurrent jurisdiction with the district court.
- (30)-(31) A security deposit on filing, by certain persons, certain documents in relation to the estate, if required by the clerk; and a security deposit on filing by certain persons, certain documents in relation to a guardianship matter, if required by the clerk.
- (32)-(38) Reasonable compensation to certain persons appointed under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) and certain other fees and costs for a hearing or proceeding under the Texas Mental Health Code; expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated; court-approved expenses for expert witness testimony for an indigent patient if authorized by the court as reimbursement to the attorney ad litem; a fee for a judge's services for holding a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50; additional reasonable and necessary expenses, as certified, to reimburse the judge for holding a hearing in a hospital or location other than the county courthouse; and a fee for the services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50.
- (39) A fee not otherwise listed in this section that is required to be collected under Section 25.0008 (regarding fees for statutory county courts), Government Code, except in certain counties, as prescribed by the law relating to county judges' fees.

Makes nonsubstantive changes.

SECTION 3. Amends Section 101.101, Government Code, to include the following fees and costs that the clerk of a statutory probate court is required to collect:

- (14) The actual cost of preserving the record as a court cost, if imposed on a party by the referring court or associate judge.
- (15)-(16) A security deposit on filing, by certain persons, certain documents in relation to the estate, if required by the clerk; and a security deposit on filing by certain persons, certain documents in relation to a guardianship matter, if required by the clerk.
- (17)-(23) Reasonable compensation to certain persons appointed under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) and certain other fees and costs for a hearing or proceeding under the Texas Mental Health Code; expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated; court-approved expenses for expert witness testimony for an indigent patient if authorized by the court as reimbursement to the attorney ad litem; a fee for a judge's services for holding a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50; additional reasonable and necessary expenses, as certified, to reimburse the judge for holding a hearing in a hospital or location other than the county courthouse; and a fee for the

services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50.

- (24) A fee not otherwise listed in this section that is required to be collected under Section 25.0029 (regarding fees for statutory probate courts), Government Code, as prescribed by the law relating to county judges' fees.

Makes nonsubstantive changes.

SECTION 4. Amends Section 101.121, Government Code, to include the following fees and costs that the clerk of a county court is required to collect:

- (22)-(24) A certain amount of court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate; monthly payments of a certain amount for remaining court fees and costs after the initial payment for that suit; and certain costs not otherwise charged to the inmate under Section 14.006 (Court Fees, Court Costs, Other Costs), Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous.
- (25)-(26) A security deposit on filing, by certain persons, certain documents in relation to the estate, if required by the clerk; and a security deposit on filing by certain persons, certain documents in relation to a guardianship matter, if required by the clerk.
- (27)-(33) Reasonable compensation to certain persons appointed under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) and certain other fees and costs for a hearing or proceeding under the Texas Mental Health Code; expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated; court-approved expenses for expert witness testimony for an indigent patient if authorized by the court as reimbursement to the attorney ad litem; a fee for a judge's services for holding a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50; additional reasonable and necessary expenses, as certified, to reimburse the judge for holding a hearing in a hospital or location other than the county courthouse; and a fee for the services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services, as assessed by the judge and not to exceed \$50.

Makes nonsubstantive changes.

SECTION 5. Amends Section 101.141, Government Code, as follows:

Sec. 101.141. JUSTICE COURT AND SMALL CLAIMS COURT FEES AND COSTS. (a)  
Includes the following fees and costs that the clerk of a justice court is required to collect:

(5)-(7) A certain amount of court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate; monthly payments of a certain amount for remaining court fees and costs after the initial payment for that suit; and certain costs not otherwise charged to the inmate under Section 14.006 (Court Fees, Court Costs, Other Costs), Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous.

(8) The cost, not to exceed \$100, of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court.

Makes nonsubstantive changes.

(b) Includes the following fees and costs that the justice of the peace is required to collect:

(3)-(5) A certain amount of court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate; monthly payments of a certain amount for remaining court fees and costs after the initial payment for that suit; and certain costs not otherwise charged to the inmate under Section 14.006 (Court Fees, Court Costs, Other Costs), Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous.

Makes nonsubstantive changes.

SECTION 6. Amends Section 101.161, Government Code, to require, rather than authorize, the clerk of a municipal court to collect a \$10 fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court. Requires the clerk to collect the cost, not to exceed \$100, of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court. Makes nonsubstantive changes.

SECTION 7. Amends Section 101.181, Government Code, to require the clerk of a municipal court of record to collect the cost, not to exceed \$100, of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court. Makes nonsubstantive changes.

SECTION 8. Amends Section 102.021, Government Code, to require a person convicted of an offense to pay part or all of the court costs on conviction in a criminal action, if directed by the justice of the peace or municipal court judge hearing the case. Makes nonsubstantive changes.

SECTION 9. Amends Section 103.021, Government Code, to require an accused or a defendant, or a party to a civil suit, as applicable, if ordered by the court or otherwise required, to pay the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs, in certain amounts in certain counties. Requires the person to pay a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable and sets forth the amount. Makes nonsubstantive changes.

SECTION 10. Amends Section 103.022, Government Code, to include the following fees and costs in those required to be paid or collected:

(16) A child support service fee in Smith County, not to exceed \$2.50 a month, if court allows assessment by the child support office. Deletes the requirement to collect a child support service fee in Nueces County, not to exceed \$5 per month, if authorized by the county commissioners court.

(19-a)-(19-b) A reasonable appraiser's fee as court costs for determining fair value of the shares of the shareholders entitled to payment for their shares in a real estate investment trust, and a reasonable appraiser's fee for determining the fair value of the shares of the shareholders entitled to payment for their shares by the existing, surviving, or new corporation.

(21) A \$10 witness's fee for one day to be paid by the party who subpoenas the witness.

(22) The cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, on a party's appeal of a final decision in a contested case.

(23) The pro rata costs to each party of arbitration in cases between a juvenile board and a school district that fail to agree on a memorandum of understanding related to the juvenile justice alternative education program.

(24) Compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs.

- (25) The actual cost of preserving the record as a court cost in Brazos county if imposed on a party by the referring court or magistrate.
- (26) A filing fee or recording fee of twice the regular fee for each page of a legal paper presented for filing or recording that fails to meet certain requirements.
- (27)-(30) A certain processing fee, as authorized by the commissioners court, for the payment by a credit card of a fee or other cost processed by a county or precinct officer; a certain processing fee, as authorized by the governing body of the municipality, for the payment by a credit card of a fee or other cost processed by a municipal official; a certain handling fee, if authorized by the commissioners court under Section 132.002 (Payment of Fees or Costs by Credit Card or Electronic Means), Local Government Code, for electronically processing the payment of a fee or other cost; and a fee, if authorized by the commissioners court, collected by a county or precinct officer on behalf of the county from a person making a payment by credit card of a fee or other cost.
- (31) A fee, as set by the securities commissioner or court, within certain limits, for sale of securities under an offering that has not been registered, if the transaction or securities are not exempt.
- (32) A \$5 fee for mailing an order vacating or staying an order suspending license to the appropriate licensing authority.

Makes nonsubstantive changes.

SECTION 11. Repealer: Chapter 104 (Editorial Powers), Government Code.

SECTION 12. (a) Provides that Sections 1-10 of this Act amend provisions in Chapters 101, 102, and 103, Government Code, as amended by the Final Report Regarding Actions to Conform the Statutory Index of Court Fees and Costs to the Acts of the 78th Legislature. Provides that the report was effective September 3, 2004, and was prepared and published in accordance with Chapter 104 (Editorial Powers), Government Code, as it existed before the effective date of this Act. Provides where the report can be located on the internet.

(b) Sets forth the findings of the legislature that the index of the court fees and costs provided by Chapters 101, 102, and 103, Government Code, is complete with the passage of this Act and the publication of the report. Provides that the legislature also finds that additional reports under Chapter 104, Government Code, to update the index are no longer necessary because the updating will occur under the Texas Legislative Council's permanent statutory revision program. Requires the council, as part of the program, under Section 323.007(c)(4)(requiring the council to implement a continuous statutory revision program), Government Code, to formulate and implement a continuous revision program of all Texas statutes, which include the index of court fees and costs.

SECTION 13. Provides that if any provision of this Act conflicts with a statute enacted by the 79th Legislature, Regular Session, 2005, the statute controls.

#### **EFFECTIVE DATE**

September 1, 2005