

By: Bohac

H.B. No. 1440

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and adjudication of the offense of graffiti and to the payment and use of a juvenile delinquency prevention fee.

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

SECTION 1. Article 42.037, Code of Criminal Procedure, is amended by adding Subsection (p) to read as follows:

(p)(1) If a court orders a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to the victim of the offense, the court may order the defendant to make restitution as provided by Subsection (b)(1)(B) or by personally restoring the property by removing or painting over any markings the defendant made.

(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal Code. The amount of the restitution ordered must be equal to the lesser of the amount of restitution authorized by Subsection (b)(1)(B) or the cost to the political subdivision of restoring the street sign or official traffic-control device. For purposes of this subdivision, "official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.

SECTION 2. Articles 102.0171(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a \$50 juvenile delinquency prevention [~~\$5 graffiti eradication~~] fee as a cost of court.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county juvenile delinquency prevention fund. A fund designated by this subsection may be used only to:

(1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;

(2) provide educational and intervention programs and materials, including printed educational materials for distribution to primary and secondary school students, designed to prevent individuals from committing offenses under Section 28.08, Penal Code;

(3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code;

(4) provide funding for teen recognition and teen recreation programs;

(5) provide funding for local teen court programs;

(6) provide funding for the local juvenile probation department; and

1           (7) provide educational and intervention programs  
2 designed to prevent juveniles from engaging in delinquent conduct.

3           SECTION 3. Section 54.046, Family Code, is amended by  
4 amending Subsection (a) and adding Subsection (a-1) to read as  
5 follows:

6           (a) If a juvenile court places on probation under Section  
7 54.04(d) a child adjudicated as having engaged in conduct in  
8 violation of Section 28.08, Penal Code, in addition to other  
9 conditions of probation, the court:

10           (1) may order the child to:

11           (A) reimburse the owner of the property for the  
12 cost of restoring the property; or

13           (B) [7] with consent of the owner of the  
14 property, [~~order the child as a condition of probation to~~] restore  
15 the property by removing or painting over any markings made by the  
16 child on the property; and

17           (2) shall order the child to make to a political  
18 subdivision that erects a street sign or official traffic-control  
19 device on which the child made markings in violation of Section  
20 28.08, Penal Code, restitution, the amount of which must be equal to  
21 the cost to the political subdivision of replacing the street sign  
22 or official traffic-control device or of restoring the sign or  
23 device, whichever amount is less.

24           (a-1) For purposes of Subsection (a), "official  
25 traffic-control device" has the meaning assigned by Section  
26 541.304, Transportation Code.

27           SECTION 4. Section 54.0461(a), Family Code, is amended to

read as follows:

(a) If a child is adjudicated as having engaged in delinquent conduct that violates Section 28.08, Penal Code, the juvenile court shall order the child, parent, or other person responsible for the child's support to pay to the court a \$50 [~~\$5~~] juvenile delinquency prevention fee as a cost of court.

SECTION 5. Chapter 54, Family Code, is amended by adding Section 54.0481 to read as follows:

Sec. 54.0481. RESTITUTION FOR DAMAGING PROPERTY WITH GRAFFITI. (a) A juvenile court, in a disposition hearing under Section 54.04 regarding a child who has been adjudicated to have engaged in delinquent conduct that violates Section 28.08, Penal Code:

(1) may order the child or a parent or other person responsible for the child's support to make restitution by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the property, personally restoring the property by removing or painting over any markings the child made; and

(2) shall order the child or a parent or other person responsible for the child's support to make to a political subdivision that erects a street sign or official traffic-control device on which the child made markings in violation of Section 28.08, Penal Code, restitution, the amount of which must be equal to the cost to the political subdivision of replacing the street sign or official traffic-control device or of restoring the sign or

device, whichever amount is less.

(b) For purposes of Subsection (a), "official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.

SECTION 6. Section 102.041, Government Code, is amended to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT. The clerk of a district court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . . . \$20;

(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . . . \$20;

(4) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . . . \$5;

(5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . . . \$3;

(6) a juvenile delinquency prevention [~~graffiti eradication~~] fee (Art. 102.0171, Code of Criminal Procedure) . . . . . \$50 [~~\$5~~]; and

(7) a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . . . \$4.

SECTION 7. Section 102.061, Government Code, is amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN

1 STATUTORY COUNTY COURT. The clerk of a statutory county court  
2 shall collect fees and costs on conviction of a defendant as  
3 follows:

4 (1) a jury fee (Art. 102.004, Code of Criminal  
5 Procedure) . . . . . \$20;

6 (2) a fee for services of the clerk of the court (Art.  
7 102.005, Code of Criminal Procedure) . . . . . \$40;

8 (3) a records management and preservation services fee  
9 (Art. 102.005, Code of Criminal Procedure) . . . . . \$20;

10 (4) a security fee on a misdemeanor offense (Art.  
11 102.017, Code of Criminal Procedure) . . . . . \$3;

12 (5) a juvenile delinquency prevention [~~graffiti~~  
13 ~~eradication~~] fee (Art. 102.0171, Code of Criminal  
14 Procedure) . . . . . \$50 [~~\$5~~]; and

15 (6) a court cost on conviction in Comal County (Sec.  
16 152.0522, Human Resources Code) . . . . . \$4.

17 SECTION 8. Section 102.081, Government Code, is amended to  
18 read as follows:

19 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN  
20 COUNTY COURT. The clerk of a county court shall collect fees and  
21 costs on conviction of a defendant as follows:

22 (1) a jury fee (Art. 102.004, Code of Criminal  
23 Procedure) . . . . . \$20;

24 (2) a fee for clerk of the court services (Art.  
25 102.005, Code of Criminal Procedure) . . . . . \$40;

26 (3) a records management and preservation services fee  
27 (Art. 102.005, Code of Criminal Procedure) . . . . . \$20;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . . . \$3; and

(5) a juvenile delinquency prevention [~~graffiti eradication~~] fee (Art. 102.0171, Code of Criminal Procedure) . . . . . \$50 [~~\$5~~].

SECTION 9. The changes in law made by this Act apply only to an offense committed or conduct engaged in on or after the effective date of this Act. An offense committed or conduct engaged in before the effective date of this Act is covered by the law in effect at the time the offense was committed or the conduct was engaged in, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed or conduct was engaged in before the effective date of this Act if any element of the offense or conduct occurred before that date.

SECTION 10. This Act takes effect September 1, 2005.