

BILL ANALYSIS

Senate Research Center
80R1182 MCK-F

H.B. 764
By: Dutton (West)
Jurisprudence
4/30/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Legislature enacted legislation authorizing a district clerk to collect and distribute a family protection fee (fee). Included in the legislation was a requirement that the county clerk pay one-half of the fee collected to the comptroller of public accounts (comptroller), for deposit to the credit of a child abuse and neglect prevention trust fund account. An Attorney General Opinion, GA-0387, found the fee to be an unconstitutional general revenue tax which placed an unconstitutional burden on the right to litigate.

As proposed, H.B. 764 amends current law to delete the statutory mandate that one-half of the family protection fee collected be provided to the comptroller for deposit to the credit of a child abuse and neglect prevention trust fund account.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 51.961(a) and (d), Government Code, as follows:

(a) Requires the commissioners court of a county to adopt a family protection fee in an amount not to exceed \$15, rather than \$30.

(d) Requires the clerk to pay a fee, rather than one-half of the fee, collected under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family protection account.

SECTION 2. Amends Section 101.061, Government Code, as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. Requires the clerk of a district court to collect an additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6 (Suit for Dissolution of Marriage), Family Code, if authorized by the county commissioners court (Section 51.961, Government Code), not to exceed \$15, rather than \$30. Makes nonsubstantive changes.

SECTION 3. Repealer: Section 51.961(g) (requiring the county clerk to pay one-half of the fee collected under this section to the comptroller, who is required to deposit the money to the credit of a certain trust fund account), Government Code.

SECTION 4. Effective date: upon passage or September 1, 2007.