

By: Hartnett

H.B. No. 1295

A BILL TO BE ENTITLED

AN ACT

relating to filing fees for certain actions filed in a court with probate jurisdiction.

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

SECTION 1. Section 118.051, Local Government Code, is amended to read as follows:

Sec. 118.051. CLERICAL DUTIES. Except as provided by Section 118.067, the [The] fees listed in this subchapter for county civil court dockets under Section 118.052(1) and county probate court dockets under Section 118.052(2) are fees for all clerical duties performed in connection with the docket, including:

(1) filing, registering or recording, docketing, and taxing costs for an application, will, complaint, petition, return, document, or proceeding;

(2) issuing and recording the return of a citation, notice, subpoena, commission to take depositions, execution while the docket is still open (civil docket), garnishment before judgment (civil docket), order, writ, process, or any other document authorized or required to be issued by the clerk on which a return must be recorded;

(3) attendances in court as clerk of the court;

(4) impaneling a jury (civil docket);

(5) swearing witnesses;

(6) approving bonds involved in court action; and

1 (7) administering oaths.

2 SECTION 2. Section 118.052, Local Government Code, is
3 amended to read as follows:

4 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
5 shall collect the following fees for services rendered to any
6 person:

7 (1) CIVIL COURT ACTIONS

8 (A) Filing of Original Action (Sec. 118.053):

9 (i) Garnishment after judgment . . . \$15.00

10 (ii) All others . . . \$40.00

11 (B) Filing of Action Other than Original (Sec.
12 118.054) . . . \$30.00

13 (C) Services Rendered After Judgment in Original
14 Action (Sec. 118.0545):

15 (i) Abstract of judgment . . . \$ 5.00

16 (ii) Execution, order of sale, writ, or
17 other process . . . \$ 5.00

18 (2) PROBATE COURT ACTIONS

19 (A) Probate Original Action (Sec. 118.055):

20 (i) Probate of a will with independent
21 executor, administration with will attached, administration of an
22 estate, guardianship or receivership of an estate, or muniment of
23 title . . . \$40.00

24 (ii) Community survivors . . . \$40.00

25 (iii) Small estates . . . \$40.00

26 (iv) Declarations of heirship . . . \$40.00

27 (v) Mental health or chemical dependency

1 services . . . \$40.00
2 (vi) Additional, special fee (Sec.
3 118.064) . . . \$ 5.00
4 (B) Services in Pending Probate Action (Sec.
5 118.056):
6 (i) Filing an inventory and appraisement
7 after the 120th day after the date of the initial filing of the
8 action . . . \$25.00
9 (ii) Approving and recording bond . . .
10 \$ 3.00
11 (iii) Administering oath . . . \$ 2.00
12 (iv) Filing annual or final account of
13 estate . . . \$25.00
14 (v) Filing application for sale of real or
15 personal property . . . \$25.00
16 (vi) Filing annual or final report of
17 guardian of a person . . . \$10.00
18 (vii) Filing a document not listed under
19 this paragraph after the filing of an order approving the inventory
20 and appraisement or after the 120th day after the date of the
21 initial filing of the action, whichever occurs first, if more than
22 25 pages . . . \$25.00
23 (C) Adverse Probate Action (Sec.
24 118.057) . . . \$40.00
25 (D) Claim Against Estate (Sec. 118.058) . . .
26 \$ 2.00
27 (E) Supplemental Court-Initiated Guardianship

1 Fee in Probate Original Actions and Adverse Probate Actions (Sec.
2 118.067) . . . \$20.00

3 (3) OTHER FEES

4 (A) Issuing Document (Sec. 118.059):
5 original document and one copy . . . \$ 4.00
6 each additional set of an original and one
7 copy . . . \$ 4.00

8 (B) Certified Papers (Sec. 118.060):
9 for the clerk's certificate . . . \$ 5.00
10 plus a fee per page or part of a page of . . .
11 \$ 1.00

12 (C) Noncertified Papers (Sec. 118.0605):
13 for each page or part of a page . . . \$ 1.00

14 (D) Letters Testamentary, Letter of
15 Guardianship, Letter of Administration, or Abstract of Judgment
16 (Sec. 118.061) . . . \$ 2.00

17 (E) Safekeeping of Wills (Sec. 118.062) . . .
18 \$ 5.00

19 (F) Mail Service of Process (Sec.
20 118.063) . . . same as sheriff

21 (G) Records Management and Preservation
22 Fee . . . \$ 5.00

23 SECTION 3. Section 118.055(a), Local Government Code, is
24 amended to read as follows:

25 (a) The fee for "Probate Original Action" under Section
26 118.052(2)(A) [~~118.052(2)~~] is for all clerical duties in connection
27 with an original action in a probate court.

1 SECTION 4. Section 118.057(a), Local Government Code, is
2 amended to read as follows:

3 (a) The fee for "Adverse Probate Action" under Section
4 118.052(2)(C) [~~118.052(2)~~] is for clerical duties in an adverse
5 action, contest, or suit in a probate court (other than the filing
6 of a claim against an estate) in which the movant or applicant
7 filing the intervention pleadings seeks any affirmative relief.
8 There is no charge for filing an original answer or response that is
9 strictly defensive to a previously filed pleading.

10 SECTION 5. Subchapter C, Chapter 118, Local Government
11 Code, is amended by adding Section 118.067 to read as follows:

12 Sec. 118.067. SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP
13 FEE. (a) The "supplemental court-initiated guardianship fee"
14 under Section 118.052(2)(E) is for the support of the judiciary in
15 guardianships initiated under Section 683, Texas Probate Code.
16 Fees collected under Section 118.052(2)(E) shall be deposited in a
17 court-initiated guardianship fund in the county treasury and may be
18 used only to supplement, rather than supplant, other available
19 county funds used to:

20 (1) pay the compensation of a guardian ad litem
21 appointed by a court under Section 683, Texas Probate Code;

22 (2) pay the compensation of an attorney ad litem
23 appointed by a court to represent a proposed ward in a guardianship
24 proceeding initiated under Section 683, Texas Probate Code; and

25 (3) fund local guardianship programs that provide
26 guardians for indigent incapacitated persons who do not have family
27 members suitable and willing to serve as guardians.

1 (b) The supplemental court-initiated guardianship fee is
2 charged for:

3 (1) a probate original action described by Section
4 118.055 and for which a fee is charged in accordance with Section
5 118.052(2)(A)(i), (ii), (iii), (iv), or (v); and

6 (2) an adverse probate action described by Section
7 118.057 and for which a fee is charged in accordance with Section
8 118.052(2)(C).

9 (c) The supplemental court-initiated guardianship fee must
10 be paid by the person against whom the fee for a probate original
11 action or adverse probate action, as applicable, is charged and is
12 due at the time that fee is due.

13 (d) The supplemental court-initiated guardianship fee is in
14 addition to all other fees charged in probate original actions and
15 adverse probate actions.

16 SECTION 6. Subchapter E, Chapter 101, Government Code, is
17 amended by adding Section 101.0818 to read as follows:

18 Sec. 101.0818. STATUTORY COUNTY COURT FEES AND COSTS:
19 SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP FEE. The clerk of a
20 statutory county court shall collect a supplemental
21 court-initiated guardianship fee of \$20 under Sections 118.052 and
22 118.067, Local Government Code.

23 SECTION 7. Subchapter F, Chapter 101, Government Code, is
24 amended by adding Section 101.1016 to read as follows:

25 Sec. 101.1016. STATUTORY PROBATE COURT FEES AND COSTS:
26 SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP FEE. The clerk of a
27 statutory probate court shall collect a supplemental

1 court-initiated guardianship fee of \$20 under Sections 118.052 and
2 118.067, Local Government Code.

3 SECTION 8. Subchapter G, Chapter 101, Government Code, is
4 amended by adding Section 101.1217 to read as follows:

5 Sec. 101.1217. COUNTY COURT FEES AND COSTS: SUPPLEMENTAL
6 COURT-INITIATED GUARDIANSHIP FEE. The clerk of a county court
7 shall collect a supplemental court-initiated guardianship fee of
8 \$20 under Sections 118.052 and 118.067, Local Government Code.

9 SECTION 9. The changes in law made by this Act apply only to
10 an action filed on or after the effective date of this Act. An
11 action filed before the effective date of this Act is governed by
12 the law in effect on the date the action was filed, and the former
13 law is continued in effect for that purpose.

14 SECTION 10. This Act takes effect September 1, 2007.