

1-1 By: Hartnett (Senate Sponsor - Wentworth) H.B. No. 1295  
1-2 (In the Senate - Received from the House March 28, 2007;  
1-3 April 3, 2007, read first time and referred to Committee on  
1-4 Jurisprudence; April 19, 2007, reported favorably by the following  
1-5 vote: Yeas 6, Nays 0; April 19, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to filing fees for certain actions filed in a court with  
1-9 probate jurisdiction.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 118.051, Local Government Code, is  
1-12 amended to read as follows:

1-13 Sec. 118.051. CLERICAL DUTIES. Except as provided by  
1-14 Section 118.067, the [The] fees listed in this subchapter for  
1-15 county civil court dockets under Section 118.052(1) and county  
1-16 probate court dockets under Section 118.052(2) are fees for all  
1-17 clerical duties performed in connection with the docket, including:

1-18 (1) filing, registering or recording, docketing, and  
1-19 taxing costs for an application, will, complaint, petition, return,  
1-20 document, or proceeding;

1-21 (2) issuing and recording the return of a citation,  
1-22 notice, subpoena, commission to take depositions, execution while  
1-23 the docket is still open (civil docket), garnishment before  
1-24 judgment (civil docket), order, writ, process, or any other  
1-25 document authorized or required to be issued by the clerk on which a  
1-26 return must be recorded;

1-27 (3) attendances in court as clerk of the court;

1-28 (4) impaneling a jury (civil docket);

1-29 (5) swearing witnesses;

1-30 (6) approving bonds involved in court action; and

1-31 (7) administering oaths.

1-32 SECTION 2. Section 118.052, Local Government Code, is  
1-33 amended to read as follows:

1-34 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court  
1-35 shall collect the following fees for services rendered to any  
1-36 person:

1-37 (1) CIVIL COURT ACTIONS

1-38 (A) Filing of Original Action (Sec. 118.053):

1-39 (i) Garnishment after judgment . . . \$15.00

1-40 (ii) All others . . . \$40.00

1-41 (B) Filing of Action Other than Original (Sec.  
1-42 118.054) . . . \$30.00

1-43 (C) Services Rendered After Judgment in Original  
1-44 Action (Sec. 118.0545):

1-45 (i) Abstract of judgment . . . \$ 5.00

1-46 (ii) Execution, order of sale, writ, or  
1-47 other process . . . \$ 5.00

1-48 (2) PROBATE COURT ACTIONS

1-49 (A) Probate Original Action (Sec. 118.055):

1-50 (i) Probate of a will with independent  
1-51 executor, administration with will attached, administration of an  
1-52 estate, guardianship or receivership of an estate, or muniment of  
1-53 title . . . \$40.00

1-54 (ii) Community survivors . . . \$40.00

1-55 (iii) Small estates . . . \$40.00

1-56 (iv) Declarations of heirship . . . \$40.00

1-57 (v) Mental health or chemical dependency  
1-58 services . . . \$40.00

1-59 (vi) Additional, special fee (Sec.  
1-60 118.064) . . . \$ 5.00

1-61 (B) Services in Pending Probate Action (Sec.  
1-62 118.056):

1-63 (i) Filing an inventory and appraisement  
1-64 after the 120th day after the date of the initial filing of the

2-1 action . . . \$25.00  
 2-2 (ii) Approving and recording bond . . .  
 2-3 \$ 3.00  
 2-4 (iii) Administering oath . . . \$ 2.00  
 2-5 (iv) Filing annual or final account of  
 2-6 estate . . . \$25.00  
 2-7 (v) Filing application for sale of real or  
 2-8 personal property . . . \$25.00  
 2-9 (vi) Filing annual or final report of  
 2-10 guardian of a person . . . \$10.00  
 2-11 (vii) Filing a document not listed under  
 2-12 this paragraph after the filing of an order approving the inventory  
 2-13 and appraisal or after the 120th day after the date of the  
 2-14 initial filing of the action, whichever occurs first, if more than  
 2-15 25 pages . . . \$25.00  
 2-16 (C) Adverse Probate Action (Sec.  
 2-17 118.057) . . . \$40.00  
 2-18 (D) Claim Against Estate (Sec. 118.058) . . .  
 2-19 \$ 2.00  
 2-20 (E) Supplemental Court-Initiated Guardianship  
 2-21 Fee in Probate Original Actions and Adverse Probate Actions (Sec.  
 2-22 118.067) . . . \$20.00  
 2-23 (3) OTHER FEES  
 2-24 (A) Issuing Document (Sec. 118.059):  
 2-25 original document and one copy . . . \$ 4.00  
 2-26 each additional set of an original and one  
 2-27 copy . . . \$ 4.00  
 2-28 (B) Certified Papers (Sec. 118.060):  
 2-29 for the clerk's certificate . . . \$ 5.00  
 2-30 plus a fee per page or part of a page of . . .  
 2-31 \$ 1.00  
 2-32 (C) Noncertified Papers (Sec. 118.0605):  
 2-33 for each page or part of a page . . . \$ 1.00  
 2-34 (D) Letters Testamentary, Letter of  
 2-35 Guardianship, Letter of Administration, or Abstract of Judgment  
 2-36 (Sec. 118.061) . . . \$ 2.00  
 2-37 (E) Safekeeping of Wills (Sec. 118.062) . . .  
 2-38 \$ 5.00  
 2-39 (F) Mail Service of Process (Sec.  
 2-40 118.063) . . . same as sheriff  
 2-41 (G) Records Management and Preservation  
 2-42 Fee . . . \$ 5.00  
 2-43 SECTION 3. Section 118.055(a), Local Government Code, is  
 2-44 amended to read as follows:  
 2-45 (a) The fee for "Probate Original Action" under Section  
 2-46 118.052(2)(A) [~~118.052(2)~~] is for all clerical duties in connection  
 2-47 with an original action in a probate court.  
 2-48 SECTION 4. Section 118.057(a), Local Government Code, is  
 2-49 amended to read as follows:  
 2-50 (a) The fee for "Adverse Probate Action" under Section  
 2-51 118.052(2)(C) [~~118.052(2)~~] is for clerical duties in an adverse  
 2-52 action, contest, or suit in a probate court (other than the filing  
 2-53 of a claim against an estate) in which the movant or applicant  
 2-54 filing the intervention pleadings seeks any affirmative relief.  
 2-55 There is no charge for filing an original answer or response that is  
 2-56 strictly defensive to a previously filed pleading.  
 2-57 SECTION 5. Subchapter C, Chapter 118, Local Government  
 2-58 Code, is amended by adding Section 118.067 to read as follows:  
 2-59 Sec. 118.067. SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP  
 2-60 FEES. (a) The "supplemental court-initiated guardianship fee"  
 2-61 under Section 118.052(2)(E) is for the support of the judiciary in  
 2-62 guardianships initiated under Section 683, Texas Probate Code.  
 2-63 Fees collected under Section 118.052(2)(E) shall be deposited in a  
 2-64 court-initiated guardianship fund in the county treasury and may be  
 2-65 used only to supplement, rather than supplant, other available  
 2-66 county funds used to:  
 2-67 (1) pay the compensation of a guardian ad litem  
 2-68 appointed by a court under Section 683, Texas Probate Code;  
 2-69 (2) pay the compensation of an attorney ad litem

3-1 appointed by a court to represent a proposed ward in a guardianship  
3-2 proceeding initiated under Section 683, Texas Probate Code; and

3-3 (3) fund local guardianship programs that provide  
3-4 guardians for indigent incapacitated persons who do not have family  
3-5 members suitable and willing to serve as guardians.

3-6 (b) The supplemental court-initiated guardianship fee is  
3-7 charged for:

3-8 (1) a probate original action described by Section  
3-9 118.055 and for which a fee is charged in accordance with Section  
3-10 118.052(2)(A)(i), (ii), (iii), (iv), or (v); and

3-11 (2) an adverse probate action described by Section  
3-12 118.057 and for which a fee is charged in accordance with Section  
3-13 118.052(2)(C).

3-14 (c) The supplemental court-initiated guardianship fee must  
3-15 be paid by the person against whom the fee for a probate original  
3-16 action or adverse probate action, as applicable, is charged and is  
3-17 due at the time that fee is due.

3-18 (d) The supplemental court-initiated guardianship fee is in  
3-19 addition to all other fees charged in probate original actions and  
3-20 adverse probate actions.

3-21 SECTION 6. Subchapter E, Chapter 101, Government Code, is  
3-22 amended by adding Section 101.0818 to read as follows:

3-23 Sec. 101.0818. STATUTORY COUNTY COURT FEES AND COSTS:  
3-24 SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP FEE. The clerk of a  
3-25 statutory county court shall collect a supplemental  
3-26 court-initiated guardianship fee of \$20 under Sections 118.052 and  
3-27 118.067, Local Government Code.

3-28 SECTION 7. Subchapter F, Chapter 101, Government Code, is  
3-29 amended by adding Section 101.1016 to read as follows:

3-30 Sec. 101.1016. STATUTORY PROBATE COURT FEES AND COSTS:  
3-31 SUPPLEMENTAL COURT-INITIATED GUARDIANSHIP FEE. The clerk of a  
3-32 statutory probate court shall collect a supplemental  
3-33 court-initiated guardianship fee of \$20 under Sections 118.052 and  
3-34 118.067, Local Government Code.

3-35 SECTION 8. Subchapter G, Chapter 101, Government Code, is  
3-36 amended by adding Section 101.1217 to read as follows:

3-37 Sec. 101.1217. COUNTY COURT FEES AND COSTS: SUPPLEMENTAL  
3-38 COURT-INITIATED GUARDIANSHIP FEE. The clerk of a county court  
3-39 shall collect a supplemental court-initiated guardianship fee of  
3-40 \$20 under Sections 118.052 and 118.067, Local Government Code.

3-41 SECTION 9. The changes in law made by this Act apply only to  
3-42 an action filed on or after the effective date of this Act. An  
3-43 action filed before the effective date of this Act is governed by  
3-44 the law in effect on the date the action was filed, and the former  
3-45 law is continued in effect for that purpose.

3-46 SECTION 10. This Act takes effect September 1, 2007.

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