

By: Hartnett

H.B. No. 2359

Substitute the following for H.B. No. 2359:

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C.S.H.B. No. 2359

A BILL TO BE ENTITLED

AN ACT

relating to the collection of certain filing fees by statutory probate courts for deposit in the judicial fund, the use of those deposits, and the remittance of the excess of those deposits.

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

SECTION 1. Section 25.00212(a), Government Code, is amended to read as follows:

(a) At the end of each state fiscal year, the comptroller shall determine the amounts deposited in the judicial fund under Section 51.704 and the sum of the amount paid under Section 25.0022(e) and the total amounts paid to the counties under Section 25.00211. If the total amount deposited ~~[paid]~~ under Section 51.704 by all counties exceeds that sum ~~[the total amount paid to counties under Section 25.00211]~~, the state shall remit the excess proportionately to each county that deposited a greater amount in the judicial fund under Section 51.704 than the amount the county was paid under Section 25.00211, as adjusted in an equitable manner to reflect the differences in the total amounts paid to the counties under Section 25.00211 ~~[the counties proportionately based on the percentage of the total paid by each county]~~.

SECTION 2. Section 25.0022(e), Government Code, is amended to read as follows:

(e) In addition to all other compensation, expenses, and perquisites authorized by law, the presiding judge shall be paid

1 for performing the duties of a presiding judge an annual salary
2 equal to the maximum salary authorized by Section 74.051(b) for a
3 presiding judge of an administrative judicial region. The
4 presiding judge is entitled to receive reasonable expenses incurred
5 in administering those duties. The state shall pay \$5,000 of the
6 salary in equal monthly installments from amounts deposited in the
7 judicial fund under Section 51.704 and appropriated for that
8 purpose, and the remainder of the salary and expenses is [are] paid
9 by the counties that have statutory probate courts, apportioned
10 according to the number of statutory probate courts in the county.

11 SECTION 3. The heading to Section 51.704, Government Code,
12 is amended to read as follows:

13 Sec. 51.704. ADDITIONAL FEES IN [~~CERTAIN~~] STATUTORY PROBATE
14 COURTS.

15 SECTION 4. Section 51.704(a), Government Code, is amended
16 to read as follows:

17 (a) In [~~Except as provided by Subsection (f), in~~] addition
18 to all other fees authorized or required by other law, the clerk of
19 a statutory probate court shall collect a \$40 filing fee in each
20 probate, guardianship, mental health, or civil case filed in the
21 court to be used for court-related purposes for the support of the
22 judiciary.

23 SECTION 5. Section 101.101, Government Code, is amended to
24 read as follows:

25 Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS. The
26 clerk of a statutory probate court shall collect fees and costs as
27 follows:

1 (1) court cost in certain civil cases to establish and
2 maintain an alternative dispute resolution system, if authorized by
3 the county commissioners court (Sec. 152.004, Civil Practice and
4 Remedies Code) . . . not to exceed \$10;

5 (2) appellate judicial system filing fees:

6 (A) First or Fourteenth Court of Appeals District
7 (Sec. 22.2021, Government Code) . . . not more than \$5;

8 (B) Second Court of Appeals District (Sec.
9 22.2031, Government Code) . . . not more than \$5;

10 (C) Fourth Court of Appeals District (Sec.
11 22.2051, Government Code) . . . not more than \$5;

12 (D) Fifth Court of Appeals District (Sec.
13 22.2061, Government Code) . . . not more than \$5; and

14 (E) Thirteenth Court of Appeals District (Sec.
15 22.2141, Government Code) . . . not more than \$5;

16 (3) additional filing fees as follows:

17 (A) for certain cases to be used for
18 court-related purposes for support of the judiciary[, ~~if authorized~~
19 ~~by the county commissioners court~~] (Sec. 51.704, Government Code)
20 . . . \$40;

21 (B) to fund the improvement of Dallas County
22 civil court facilities, if authorized by the county commissioners
23 court (Sec. 51.705, Government Code) . . . not more than \$15; and

24 (C) for filing any civil action or proceeding
25 requiring a filing fee, including an appeal, and on the filing of
26 any counterclaim, cross-action, intervention, interpleader, or
27 third-party action requiring a filing fee to fund civil legal

1 services for the indigent (Sec. 133.153, Local Government Code)
2 . . . \$5;

3 (4) for filing an application for registration of
4 death (Sec. 193.007, Health and Safety Code) . . . \$1;

5 (5) fee for judge's services on an application for
6 court-ordered mental health services (Sec. 574.031, Health and
7 Safety Code) . . . not to exceed \$50;

8 (6) fee for prosecutor's services on an application
9 for court-ordered mental health services (Sec. 574.031, Health and
10 Safety Code) . . . not to exceed \$50;

11 (7) additional filing fee to fund contingency fund for
12 liability insurance, if authorized by the county commissioners
13 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

14 (8) probate court actions (Sec. 118.052, Local
15 Government Code):

16 (A) probate original action (Secs. 118.052 and
17 118.055, Local Government Code):

18 (i) probate of a will with independent
19 executor, administration with will attached, administration of an
20 estate, guardianship or receivership of an estate, or muniment of
21 title (Sec. 118.052, Local Government Code) . . . \$40;

22 (ii) community survivors (Sec. 118.052,
23 Local Government Code) . . . \$40;

24 (iii) small estates (Sec. 118.052, Local
25 Government Code) . . . \$40;

26 (iv) declarations of heirship (Sec.
27 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisement after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisement or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and

1 118.057, Local Government Code) . . . \$40; and

2 (D) claim against estate (Secs. 118.052 and
3 118.058, Local Government Code) . . . \$2;

4 (9) other fees (Sec. 118.052, Local Government Code):

5 (A) issuing document (Secs. 118.052 and 118.059,
6 Local Government Code):

7 (i) original document and one copy (Sec.
8 118.052, Local Government Code) . . . \$4; and

9 (ii) each additional set of an original and
10 one copy (Sec. 118.052, Local Government Code) . . . \$4;

11 (B) certified papers (Secs. 118.052 and 118.060,
12 Local Government Code):

13 (i) for the clerk's certificate (Sec.
14 118.052, Local Government Code) . . . \$5; and

15 (ii) a fee per page or part of a page (Sec.
16 118.052, Local Government Code) . . . \$1;

17 (C) noncertified papers, for each page or part of
18 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
19 \$1;

20 (D) letters testamentary, letter of
21 guardianship, letter of administration, or abstract of judgment
22 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

23 (E) safekeeping of wills (Secs. 118.052 and
24 118.062, Local Government Code) . . . \$5;

25 (F) mail service of process (Secs. 118.052 and
26 118.063, Local Government Code) . . . same as sheriff; and

27 (G) records management and preservation fee

1 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

2 (10) fee for deposit of a will with the county clerk
3 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

4 (11) court costs for each special commissioner in an
5 eminent domain proceeding (Sec. 21.047, Property Code) . . . as
6 taxed by the court, \$10 or more;

7 (12) jury fee for civil case (Sec. 51.604, Government
8 Code) . . . \$22;

9 (13) court cost in civil cases other than suits for
10 delinquent taxes to fund the county law library fund, if authorized
11 by the county commissioners court (Sec. 323.023, Local Government
12 Code) . . . not to exceed \$35;

13 (14) the expense of preserving the record as a court
14 cost, if imposed on a party by the referring court or associate
15 judge (Sec. 54.612, Government Code) . . . actual cost;

16 (15) security deposit on filing, by any person other
17 than the personal representative of an estate, an application,
18 complaint, or opposition in relation to the estate, if required by
19 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the
20 proceeding;

21 (16) security deposit on filing, by any person other
22 than the guardian, attorney ad litem, or guardian ad litem, an
23 application, complaint, or opposition in relation to a guardianship
24 matter, if required by the clerk (Sec. 622, Texas Probate Code)
25 . . . probable cost of the guardianship proceeding;

26 (17) for a hearing or proceeding under the Texas
27 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as

1 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .
2 reasonable compensation to the following persons appointed under
3 the Texas Mental Health Code:

- 4 (A) attorneys;
- 5 (B) physicians;
- 6 (C) language interpreters;
- 7 (D) sign interpreters; and
- 8 (E) masters;

9 (18) for a hearing or proceeding under the Texas
10 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
11 costs (Sec. 571.018, Health and Safety Code):

- 12 (A) attorney's fees;
- 13 (B) physician examination fees;
- 14 (C) expense of transportation to a mental health
15 facility or to a federal agency not to exceed \$50 if transporting
16 within the same county and not to exceed the reasonable cost of
17 transportation if transporting between counties;
- 18 (D) costs and salary supplements authorized
19 under Section 574.031, Health and Safety Code; and
- 20 (E) prosecutors' fees authorized under Section
21 574.031, Health and Safety Code;

22 (19) expenses of transporting certain patients from
23 the county of treatment to a hearing in the county in which the
24 proceedings originated (Sec. 574.008, Health and Safety Code) . . .
25 actual expenses unless certain arrangements are made to hold the
26 hearing in the county in which the patient is receiving services;

27 (20) expenses for expert witness testimony for an

1 indigent patient (Sec. 574.010, Health and Safety Code) . . . if
2 authorized by the court as reimbursement to the attorney ad litem,
3 court-approved expenses;

4 (21) fee for judge's services for holding a hearing on
5 an application for court-ordered mental health services (Sec.
6 574.031, Health and Safety Code) . . . as assessed by the judge, not
7 to exceed \$50;

8 (22) expenses to reimburse judge for holding a hearing
9 in a hospital or location other than the county courthouse (Sec.
10 574.031, Health and Safety Code) . . . reasonable and necessary
11 expenses as certified;

12 (23) fee for services of a prosecuting attorney,
13 including costs incurred for preparation of documents related to a
14 hearing on an application for court-ordered mental health services
15 (Sec. 574.031, Health and Safety Code) . . . as assessed by the
16 judge, not to exceed \$50; and

17 (24) a fee not otherwise listed in this section that is
18 required to be collected under Section 25.0029, Government Code
19 (Sec. 25.0029, Government Code) . . . as prescribed by law relating
20 to county judges' fees.

21 SECTION 6. Section 133.004, Local Government Code, is
22 amended to read as follows:

23 Sec. 133.004. CIVIL FEES. This chapter applies to the
24 following civil fees:

25 (1) the consolidated fee on filing in district court
26 imposed under Section 133.151;

27 (2) the filing fee in district court for basic civil

1 legal services for indigents imposed under Section 133.152;

2 (3) the filing fee in courts other than district court
3 for basic civil legal services for indigents imposed under Section
4 133.153;

5 (4) the filing fees for the judicial fund imposed in
6 certain statutory county courts under Section 51.702, Government
7 Code;

8 (5) the filing fees for the judicial fund imposed in
9 certain county courts under Section 51.703, Government Code;

10 (6) the filing fees for the judicial fund imposed in
11 ~~[certain]~~ statutory probate courts under Section 51.704,
12 Government Code;

13 (7) fees collected under Section 118.015;

14 (8) marriage license fees for the family trust fund
15 collected under Section 118.018;

16 (9) marriage license or declaration of informal
17 marriage fees for the child abuse and neglect prevention trust fund
18 account collected under Section 118.022; and

19 (10) the filing fee for the judicial fund imposed in
20 district court, statutory county court, and county court under
21 Section 133.154.

22 SECTION 7. Sections 51.704(e), (f), (g), and (h),
23 Government Code, are repealed.

24 SECTION 8. Section 25.00212, Government Code, as amended by
25 this Act, applies to the determination of excess contributions and
26 remittance of those contributions under that section beginning with
27 the determination and remittance occurring at the end of state

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1 fiscal year 2008.

2 SECTION 9. This Act takes effect September 1, 2007.