

By: Hartnett

H.B. No. 2359

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the collection of certain filing fees by statutory  
3 probate courts for deposit in the judicial fund and the remittance  
4 of the excess of those deposits.

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

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

8 (a) At the end of each state fiscal year, the comptroller  
9 shall determine the amounts deposited in the judicial fund under  
10 Section 51.704 and the amounts paid to the counties under Section  
11 25.00211. If the total amount paid under Section 51.704 by all  
12 counties exceeds the total amount paid to counties under Section  
13 25.00211, the state shall remit the excess in equal amounts to each  
14 county that deposited a greater amount in the judicial fund under  
15 Section 51.704 than the amount the county was paid under Section  
16 25.00211 [~~the counties proportionately based on the percentage of~~  
17 ~~the total paid by each county~~].

18 SECTION 2. The heading to Section 51.704, Government Code,  
19 is amended to read as follows:

20 Sec. 51.704. ADDITIONAL FEES IN [~~CERTAIN~~] STATUTORY PROBATE  
21 COURTS.

22 SECTION 3. Section 51.704(a), Government Code, is amended  
23 to read as follows:

24 (a) In [~~Except as provided by Subsection (f), in~~] addition

1 to all other fees authorized or required by other law, the clerk of  
2 a statutory probate court shall collect a \$40 filing fee in each  
3 probate, guardianship, mental health, or civil case filed in the  
4 court to be used for court-related purposes for the support of the  
5 judiciary.

6 SECTION 4. Section 101.101, Government Code, is amended to  
7 read as follows:

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

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

15 (2) appellate judicial system filing fees:

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

18 (B) Second Court of Appeals District (Sec.  
19 22.2031, Government Code) . . . not more than \$5;

20 (C) Fourth Court of Appeals District (Sec.  
21 22.2051, Government Code) . . . not more than \$5;

22 (D) Fifth Court of Appeals District (Sec.  
23 22.2061, Government Code) . . . not more than \$5; and

24 (E) Thirteenth Court of Appeals District (Sec.  
25 22.2141, Government Code) . . . not more than \$5;

26 (3) additional filing fees as follows:

27 (A) for certain cases to be used for

1 court-related purposes for support of the judiciary[, ~~if authorized~~  
2 ~~by the county commissioners court~~] (Sec. 51.704, Government Code)  
3 . . . \$40;

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

7 (C) for filing any civil action or proceeding  
8 requiring a filing fee, including an appeal, and on the filing of  
9 any counterclaim, cross-action, intervention, interpleader, or  
10 third-party action requiring a filing fee to fund civil legal  
11 services for the indigent (Sec. 133.153, Local Government Code)  
12 . . . \$5;

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

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

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

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

24 (8) probate court actions (Sec. 118.052, Local  
25 Government Code):

26 (A) probate original action (Secs. 118.052 and  
27 118.055, Local Government Code):

1 (i) probate of a will with independent  
2 executor, administration with will attached, administration of an  
3 estate, guardianship or receivership of an estate, or muniment of  
4 title (Sec. 118.052, Local Government Code) . . . \$40;

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

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

9 (iv) declarations of heirship (Sec.  
10 118.052, Local Government Code) . . . \$40;

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

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

15 (B) services in pending probate action (Secs.  
16 118.052 and 118.056, Local Government Code):

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

20 (ii) approving and recording bond (Sec.  
21 118.052, Local Government Code) . . . \$3;

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

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

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

1 (vi) filing annual or final report of  
2 guardian of a person (Sec. 118.052, Local Government Code) . . .  
3 \$10; and

4 (vii) filing a document not listed under  
5 this paragraph after the filing of an order approving the inventory  
6 and appraisement or after the 120th day after the date of the  
7 initial filing of the action, whichever occurs first (Secs. 118.052  
8 and 191.007, Local Government Code), if more than 25 pages . . .  
9 \$25;

10 (C) adverse probate action (Secs. 118.052 and  
11 118.057, Local Government Code) . . . \$40; and

12 (D) claim against estate (Secs. 118.052 and  
13 118.058, Local Government Code) . . . \$2;

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

15 (A) issuing document (Secs. 118.052 and 118.059,  
16 Local Government Code):

17 (i) original document and one copy (Sec.  
18 118.052, Local Government Code) . . . \$4; and

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

21 (B) certified papers (Secs. 118.052 and 118.060,  
22 Local Government Code):

23 (i) for the clerk's certificate (Sec.  
24 118.052, Local Government Code) . . . \$5; and

25 (ii) a fee per page or part of a page (Sec.  
26 118.052, Local Government Code) . . . \$1;

27 (C) noncertified papers, for each page or part of

1 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .  
2 \$1;

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

6 (E) safekeeping of wills (Secs. 118.052 and  
7 118.062, Local Government Code) . . . \$5;

8 (F) mail service of process (Secs. 118.052 and  
9 118.063, Local Government Code) . . . same as sheriff; and

10 (G) records management and preservation fee  
11 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

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

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

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

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

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

26 (15) security deposit on filing, by any person other  
27 than the personal representative of an estate, an application,

1 complaint, or opposition in relation to the estate, if required by  
2 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the  
3 proceeding;

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

9 (17) for a hearing or proceeding under the Texas  
10 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as  
11 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .  
12 reasonable compensation to the following persons appointed under  
13 the Texas Mental Health Code:

- 14 (A) attorneys;
- 15 (B) physicians;
- 16 (C) language interpreters;
- 17 (D) sign interpreters; and
- 18 (E) masters;

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

- 22 (A) attorney's fees;
- 23 (B) physician examination fees;
- 24 (C) expense of transportation to a mental health  
25 facility or to a federal agency not to exceed \$50 if transporting  
26 within the same county and not to exceed the reasonable cost of  
27 transportation if transporting between counties;

1 (D) costs and salary supplements authorized  
2 under Section 574.031, Health and Safety Code; and

3 (E) prosecutors' fees authorized under Section  
4 574.031, Health and Safety Code;

5 (19) expenses of transporting certain patients from  
6 the county of treatment to a hearing in the county in which the  
7 proceedings originated (Sec. 574.008, Health and Safety Code) . . .  
8 actual expenses unless certain arrangements are made to hold the  
9 hearing in the county in which the patient is receiving services;

10 (20) expenses for expert witness testimony for an  
11 indigent patient (Sec. 574.010, Health and Safety Code) . . . if  
12 authorized by the court as reimbursement to the attorney ad litem,  
13 court-approved expenses;

14 (21) fee for judge's services for holding a hearing on  
15 an application for court-ordered mental health services (Sec.  
16 574.031, Health and Safety Code) . . . as assessed by the judge, not  
17 to exceed \$50;

18 (22) expenses to reimburse judge for holding a hearing  
19 in a hospital or location other than the county courthouse (Sec.  
20 574.031, Health and Safety Code) . . . reasonable and necessary  
21 expenses as certified;

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

27 (24) a fee not otherwise listed in this section that is



1 required to be collected under Section 25.0029, Government Code  
2 (Sec. 25.0029, Government Code) . . . as prescribed by law relating  
3 to county judges' fees.

4 SECTION 5. Section 133.004, Local Government Code, is  
5 amended to read as follows:

6 Sec. 133.004. CIVIL FEES. This chapter applies to the  
7 following civil fees:

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

10 (2) the filing fee in district court for basic civil  
11 legal services for indigents imposed under Section 133.152;

12 (3) the filing fee in courts other than district court  
13 for basic civil legal services for indigents imposed under Section  
14 133.153;

15 (4) the filing fees for the judicial fund imposed in  
16 certain statutory county courts under Section 51.702, Government  
17 Code;

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

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

23 (7) fees collected under Section 118.015;

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

26 (9) marriage license or declaration of informal  
27 marriage fees for the child abuse and neglect prevention trust fund

1 account collected under Section 118.022; and

2 (10) the filing fee for the judicial fund imposed in  
3 district court, statutory county court, and county court under  
4 Section 133.154.

5 SECTION 6. Sections 51.704(e), (f), (g), and (h),  
6 Government Code, are repealed.

7 SECTION 7. Section 25.00212, Government Code, as amended by  
8 this Act, applies to the determination of excess contributions and  
9 remittance of those contributions under that section beginning with  
10 the determination and remittance occurring at the end of state  
11 fiscal year 2008.

12 SECTION 8. This Act takes effect September 1, 2007.