

1-1 By: Hartnett (Senate Sponsor - Wentworth) H.B. No. 2359
1-2 (In the Senate - Received from the House April 16, 2007;
1-3 April 19, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 11, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 11, 2007, sent to printer.)

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

1-8 relating to the collection of certain filing fees by statutory
1-9 probate courts for deposit in the judicial fund, the use of those
1-10 deposits, and the remittance of the excess of those deposits.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 25.00212(a), Government Code, is amended
1-13 to read as follows:

1-14 (a) At the end of each state fiscal year, the comptroller
1-15 shall determine the amounts deposited in the judicial fund under
1-16 Section 51.704 and the sum of the amount paid under Section
1-17 25.0022(e) and the total amounts paid to the counties under Section
1-18 25.00211. If the total amount deposited [paid] under Section
1-19 51.704 by all counties exceeds that sum [the total amount paid to
1-20 counties under Section 25.00211], the state shall remit the excess
1-21 proportionately to each county that deposited a greater amount in
1-22 the judicial fund under Section 51.704 than the amount the county
1-23 was paid under Section 25.00211, as adjusted in an equitable manner
1-24 to reflect the differences in the total amounts paid to the counties
1-25 under Section 25.00211 [the counties proportionately based on the
1-26 percentage of the total paid by each county].

1-27 SECTION 2. Section 25.0022(e), Government Code, is amended
1-28 to read as follows:

1-29 (e) In addition to all other compensation, expenses, and
1-30 perquisites authorized by law, the presiding judge shall be paid
1-31 for performing the duties of a presiding judge an annual salary
1-32 equal to the maximum salary authorized by Section 74.051(b) for a
1-33 presiding judge of an administrative judicial region. The
1-34 presiding judge is entitled to receive reasonable expenses incurred
1-35 in administering those duties. The state shall pay \$5,000 of the
1-36 salary in equal monthly installments from amounts deposited in the
1-37 judicial fund under Section 51.704 and appropriated for that
1-38 purpose, and the remainder of the salary and expenses is [are] paid
1-39 by the counties that have statutory probate courts, apportioned
1-40 according to the number of statutory probate courts in the county.

1-41 SECTION 3. The heading to Section 51.704, Government Code,
1-42 is amended to read as follows:

1-43 Sec. 51.704. ADDITIONAL FEES IN [~~CERTAIN~~] STATUTORY PROBATE
1-44 COURTS.

1-45 SECTION 4. Section 51.704(a), Government Code, is amended
1-46 to read as follows:

1-47 (a) In [Except as provided by Subsection (f), in] addition
1-48 to all other fees authorized or required by other law, the clerk of
1-49 a statutory probate court shall collect a \$40 filing fee in each
1-50 probate, guardianship, mental health, or civil case filed in the
1-51 court to be used for court-related purposes for the support of the
1-52 judiciary.

1-53 SECTION 5. Section 101.101, Government Code, is amended to
1-54 read as follows:

1-55 Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS. The
1-56 clerk of a statutory probate court shall collect fees and costs as
1-57 follows:

1-58 (1) court cost in certain civil cases to establish and
1-59 maintain an alternative dispute resolution system, if authorized by
1-60 the county commissioners court (Sec. 152.004, Civil Practice and
1-61 Remedies Code) . . . not to exceed \$10;

1-62 (2) appellate judicial system filing fees:

1-63 (A) First or Fourteenth Court of Appeals District
1-64 (Sec. 22.2021, Government Code) . . . not more than \$5;

2-1 (B) Second Court of Appeals District (Sec.
2-2 22.2031, Government Code) . . . not more than \$5;
2-3 (C) Fourth Court of Appeals District (Sec.
2-4 22.2051, Government Code) . . . not more than \$5;
2-5 (D) Fifth Court of Appeals District (Sec.
2-6 22.2061, Government Code) . . . not more than \$5; and
2-7 (E) Thirteenth Court of Appeals District (Sec.
2-8 22.2141, Government Code) . . . not more than \$5;
2-9 (3) additional filing fees as follows:
2-10 (A) for certain cases to be used for
2-11 court-related purposes for support of the judiciary [~~if authorized~~
2-12 ~~by the county commissioners court~~] (Sec. 51.704, Government Code)
2-13 . . . \$40;
2-14 (B) to fund the improvement of Dallas County
2-15 civil court facilities, if authorized by the county commissioners
2-16 court (Sec. 51.705, Government Code) . . . not more than \$15; and
2-17 (C) for filing any civil action or proceeding
2-18 requiring a filing fee, including an appeal, and on the filing of
2-19 any counterclaim, cross-action, intervention, interpleader, or
2-20 third-party action requiring a filing fee to fund civil legal
2-21 services for the indigent (Sec. 133.153, Local Government Code)
2-22 . . . \$5;
2-23 (4) for filing an application for registration of
2-24 death (Sec. 193.007, Health and Safety Code) . . . \$1;
2-25 (5) fee for judge's services on an application for
2-26 court-ordered mental health services (Sec. 574.031, Health and
2-27 Safety Code) . . . not to exceed \$50;
2-28 (6) fee for prosecutor's services on an application
2-29 for court-ordered mental health services (Sec. 574.031, Health and
2-30 Safety Code) . . . not to exceed \$50;
2-31 (7) additional filing fee to fund contingency fund for
2-32 liability insurance, if authorized by the county commissioners
2-33 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;
2-34 (8) probate court actions (Sec. 118.052, Local
2-35 Government Code):
2-36 (A) probate original action (Secs. 118.052 and
2-37 118.055, Local Government Code):
2-38 (i) probate of a will with independent
2-39 executor, administration with will attached, administration of an
2-40 estate, guardianship or receivership of an estate, or muniment of
2-41 title (Sec. 118.052, Local Government Code) . . . \$40;
2-42 (ii) community survivors (Sec. 118.052,
2-43 Local Government Code) . . . \$40;
2-44 (iii) small estates (Sec. 118.052, Local
2-45 Government Code) . . . \$40;
2-46 (iv) declarations of heirship (Sec.
2-47 118.052, Local Government Code) . . . \$40;
2-48 (v) mental health or chemical dependency
2-49 services (Sec. 118.052, Local Government Code) . . . \$40; and
2-50 (vi) additional, special fee (Secs. 118.052
2-51 and 118.064, Local Government Code) . . . \$5;
2-52 (B) services in pending probate action (Secs.
2-53 118.052 and 118.056, Local Government Code):
2-54 (i) filing an inventory and appraisalment
2-55 after the 120th day after the date of the initial filing of the
2-56 action (Sec. 118.052, Local Government Code) . . . \$25;
2-57 (ii) approving and recording bond (Sec.
2-58 118.052, Local Government Code) . . . \$3;
2-59 (iii) administering oath (Sec. 118.052,
2-60 Local Government Code) . . . \$2;
2-61 (iv) filing annual or final account of
2-62 estate (Sec. 118.052, Local Government Code) . . . \$25;
2-63 (v) filing application for sale of real or
2-64 personal property (Sec. 118.052, Local Government Code) . . . \$25;
2-65 (vi) filing annual or final report of
2-66 guardian of a person (Sec. 118.052, Local Government Code) . . .
2-67 \$10; and
2-68 (vii) filing a document not listed under
2-69 this paragraph after the filing of an order approving the inventory

3-1 and appraisement or after the 120th day after the date of the
3-2 initial filing of the action, whichever occurs first (Secs. 118.052
3-3 and 191.007, Local Government Code), if more than 25 pages . . .
3-4 \$25;

3-5 (C) adverse probate action (Secs. 118.052 and
3-6 118.057, Local Government Code) . . . \$40; and

3-7 (D) claim against estate (Secs. 118.052 and
3-8 118.058, Local Government Code) . . . \$2;

3-9 (9) other fees (Sec. 118.052, Local Government Code):

3-10 (A) issuing document (Secs. 118.052 and 118.059,
3-11 Local Government Code):

3-12 (i) original document and one copy (Sec.
3-13 118.052, Local Government Code) . . . \$4; and

3-14 (ii) each additional set of an original and
3-15 one copy (Sec. 118.052, Local Government Code) . . . \$4;

3-16 (B) certified papers (Secs. 118.052 and 118.060,
3-17 Local Government Code):

3-18 (i) for the clerk's certificate (Sec.
3-19 118.052, Local Government Code) . . . \$5; and

3-20 (ii) a fee per page or part of a page (Sec.
3-21 118.052, Local Government Code) . . . \$1;

3-22 (C) noncertified papers, for each page or part of
3-23 a page (Secs. 118.052 and 118.0605, Local Government Code) . . .
3-24 \$1;

3-25 (D) letters testamentary, letter of
3-26 guardianship, letter of administration, or abstract of judgment
3-27 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

3-28 (E) safekeeping of wills (Secs. 118.052 and
3-29 118.062, Local Government Code) . . . \$5;

3-30 (F) mail service of process (Secs. 118.052 and
3-31 118.063, Local Government Code) . . . same as sheriff; and

3-32 (G) records management and preservation fee
3-33 (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

3-34 (10) fee for deposit of a will with the county clerk
3-35 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

3-36 (11) court costs for each special commissioner in an
3-37 eminent domain proceeding (Sec. 21.047, Property Code) . . . as
3-38 taxed by the court, \$10 or more;

3-39 (12) jury fee for civil case (Sec. 51.604, Government
3-40 Code) . . . \$22;

3-41 (13) court cost in civil cases other than suits for
3-42 delinquent taxes to fund the county law library fund, if authorized
3-43 by the county commissioners court (Sec. 323.023, Local Government
3-44 Code) . . . not to exceed \$35;

3-45 (14) the expense of preserving the record as a court
3-46 cost, if imposed on a party by the referring court or associate
3-47 judge (Sec. 54.612, Government Code) . . . actual cost;

3-48 (15) security deposit on filing, by any person other
3-49 than the personal representative of an estate, an application,
3-50 complaint, or opposition in relation to the estate, if required by
3-51 the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the
3-52 proceeding;

3-53 (16) security deposit on filing, by any person other
3-54 than the guardian, attorney ad litem, or guardian ad litem, an
3-55 application, complaint, or opposition in relation to a guardianship
3-56 matter, if required by the clerk (Sec. 622, Texas Probate Code)
3-57 . . . probable cost of the guardianship proceeding;

3-58 (17) for a hearing or proceeding under the Texas
3-59 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as
3-60 costs (Secs. 571.017 and 571.018, Health and Safety Code) . . .
3-61 reasonable compensation to the following persons appointed under
3-62 the Texas Mental Health Code:

3-63 (A) attorneys;

3-64 (B) physicians;

3-65 (C) language interpreters;

3-66 (D) sign interpreters; and

3-67 (E) masters;

3-68 (18) for a hearing or proceeding under the Texas
3-69 Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as

4-1 costs (Sec. 571.018, Health and Safety Code):

4-2 (A) attorney's fees;

4-3 (B) physician examination fees;

4-4 (C) expense of transportation to a mental health
4-5 facility or to a federal agency not to exceed \$50 if transporting
4-6 within the same county and not to exceed the reasonable cost of
4-7 transportation if transporting between counties;

4-8 (D) costs and salary supplements authorized
4-9 under Section 574.031, Health and Safety Code; and

4-10 (E) prosecutors' fees authorized under Section
4-11 574.031, Health and Safety Code;

4-12 (19) expenses of transporting certain patients from
4-13 the county of treatment to a hearing in the county in which the
4-14 proceedings originated (Sec. 574.008, Health and Safety Code) . . .
4-15 actual expenses unless certain arrangements are made to hold the
4-16 hearing in the county in which the patient is receiving services;

4-17 (20) expenses for expert witness testimony for an
4-18 indigent patient (Sec. 574.010, Health and Safety Code) . . . if
4-19 authorized by the court as reimbursement to the attorney ad litem,
4-20 court-approved expenses;

4-21 (21) fee for judge's services for holding a hearing on
4-22 an application for court-ordered mental health services (Sec.
4-23 574.031, Health and Safety Code) . . . as assessed by the judge, not
4-24 to exceed \$50;

4-25 (22) expenses to reimburse judge for holding a hearing
4-26 in a hospital or location other than the county courthouse (Sec.
4-27 574.031, Health and Safety Code) . . . reasonable and necessary
4-28 expenses as certified;

4-29 (23) fee for services of a prosecuting attorney,
4-30 including costs incurred for preparation of documents related to a
4-31 hearing on an application for court-ordered mental health services
4-32 (Sec. 574.031, Health and Safety Code) . . . as assessed by the
4-33 judge, not to exceed \$50; and

4-34 (24) a fee not otherwise listed in this section that is
4-35 required to be collected under Section 25.0029, Government Code
4-36 (Sec. 25.0029, Government Code) . . . as prescribed by law relating
4-37 to county judges' fees.

4-38 SECTION 6. Section 133.004, Local Government Code, is
4-39 amended to read as follows:

4-40 Sec. 133.004. CIVIL FEES. This chapter applies to the
4-41 following civil fees:

4-42 (1) the consolidated fee on filing in district court
4-43 imposed under Section 133.151;

4-44 (2) the filing fee in district court for basic civil
4-45 legal services for indigents imposed under Section 133.152;

4-46 (3) the filing fee in courts other than district court
4-47 for basic civil legal services for indigents imposed under Section
4-48 133.153;

4-49 (4) the filing fees for the judicial fund imposed in
4-50 certain statutory county courts under Section 51.702, Government
4-51 Code;

4-52 (5) the filing fees for the judicial fund imposed in
4-53 certain county courts under Section 51.703, Government Code;

4-54 (6) the filing fees for the judicial fund imposed in
4-55 ~~[certain]~~ statutory probate courts under Section 51.704,
4-56 Government Code;

4-57 (7) fees collected under Section 118.015;

4-58 (8) marriage license fees for the family trust fund
4-59 collected under Section 118.018;

4-60 (9) marriage license or declaration of informal
4-61 marriage fees for the child abuse and neglect prevention trust fund
4-62 account collected under Section 118.022; and

4-63 (10) the filing fee for the judicial fund imposed in
4-64 district court, statutory county court, and county court under
4-65 Section 133.154.

4-66 SECTION 7. Sections 51.704(e), (f), (g), and (h),
4-67 Government Code, are repealed.

4-68 SECTION 8. Section 25.00212, Government Code, as amended by
4-69 this Act, applies to the determination of excess contributions and

5-1 remittance of those contributions under that section beginning with
5-2 the determination and remittance occurring at the end of state
5-3 fiscal year 2008.

5-4 SECTION 9. This Act takes effect September 1, 2007.

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