

House Bill 666
Senate Amendments
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SECTION 1. The heading to Article 102.0178, Code of Criminal Procedure, is amended to read as follows:

Art. 102.0178. COURT COSTS; [~~ATTENDANT TO CERTAIN INTOXICATION AND~~] DRUG COURT PROGRAMS [~~CONVICTIONS~~].

SECTION 2. Article 102.0178(a), Code of Criminal Procedure, is amended to read as follows:

(a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$50 as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

- (1) Chapter 22, 25, 28, 29, 30, 31, 32, 46, or 49, Penal Code; or
- (2) Chapter 481, Health and Safety Code.

SECTION 3. (a) Section 102.021, Government Code, is amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

- (1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . \$4;

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No equivalent provision.

SECTION 1. Article 102.0178(a), Code of Criminal Procedure, is amended to read as follows:

(a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$60 [~~\$50~~] as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

- (1) Chapter 49, Penal Code; or
- (2) Chapter 481, Health and Safety Code.

SECTION 2. (a) Section 102.021, Government Code, is amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. A person convicted of an offense shall pay the following under the Code of Criminal Procedure, in addition to all other costs:

- (1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . \$4;

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- (2) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;
- (3) fees for services of peace officer:
 - (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (B) executing or processing an issued arrest warrant, ~~[or]~~ capias, or capias pro fine (Art. 102.011, Code of Criminal Procedure) . . . \$50;
 - (C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;
 - (E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;
 - (F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;
 - (I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
 - (J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed

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- (2) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;
- (3) fees for services of peace officer:
 - (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (B) executing or processing an issued arrest warrant, ~~[or]~~ capias, or capias pro fine (Art. 102.011, Code of Criminal Procedure) . . . \$50;
 - (C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;
 - (D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;
 - (E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;
 - (F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;
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 - (H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;
 - (I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
 - (J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed

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- \$5;
- (4) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) . . . \$10 per day or part of a day, plus actual necessary travel expenses;
- (5) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
- (6) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- (7) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- (8) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . \$20;
- (9) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . \$15;
- (10) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;
- (11) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- (12) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal

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- \$5;
- (4) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) ... \$10 per day or part of a day, plus actual necessary travel expenses;
- (5) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) ... actual cost;
- (6) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) ... \$25;
- (7) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) ... \$25;
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Procedure) . . . \$100;
(13) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) . . . \$250;
(14) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . \$50;
(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . \$12; ~~and~~
(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge; ~~and~~
(17) court costs for certain convictions under the Penal Code and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.
(b) Section 102.0215, Government Code, is repealed.

SECTION 4. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

No equivalent provision.

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Procedure) ... \$100;
(13) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) ... \$250;
(14) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) ... \$50;
(15) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) ... \$12; ~~and~~
(16) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) ... part or all of the costs as directed by the judge; ~~and~~
(17) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 469, Health and Safety Code (Art. 102.0178, Code of Criminal Procedure) ... \$60.
(b) Section 102.0215, Government Code, is repealed.

No equivalent provision.

SECTION __. Chapter 469, Health and Safety Code, is amended by designating Sections 469.001 through

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469.009 as Subchapter A and adding a heading to that subchapter to read as follows:

SUBCHAPTER A. DRUG COURT PROGRAMS

SECTION __. Chapter 469, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. ASSOCIATE JUDGES FOR DRUG COURT PROGRAMS

Sec. 469.051. APPOINTMENT BY PRESIDING JUDGE.

(a) Subject to available state funding, the presiding judge of each administrative judicial region shall appoint a full-time or part-time associate judge to establish and administer a drug court program described by Section 469.002 if, after conferring with each judge of a court in the region that serves a county with a population of 200,000 or less, the presiding judge determines one or more of those judges desire the appointment of an associate judge under this section.

(b) The presiding judge may limit an appointment under this section to a specified period and may terminate an appointment at any time.

(c) An associate judge may be appointed under this section to serve more than one court. Two or more judges of administrative judicial regions may jointly appoint one or more associate judges to serve courts located in the regions.

(d) Not later than the 31st day after the date an associate judge is appointed under this section, the judges of the courts served by the associate judge, after consulting

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with the associate judge and each presiding judge of the administrative judicial region who appointed the associate judge, shall establish a court referral protocol for the referral of cases to the drug court program administered by the associate judge.

Sec. 469.052. QUALIFICATIONS. To be eligible for appointment as an associate judge under this subchapter, a person must:

- (1) be a United States citizen;
- (2) have resided in this state for the two years immediately preceding the date of appointment;
- (3) meet one of the following qualifications:
 - (A) be eligible for assignment under Section 74.054, Government Code, because the person is named on the list of retired and former judges subject to assignment under Section 74.055, Government Code; or
 - (B) be licensed to practice law in this state and have been practicing law in this state or been acting as a judge of a court in this state for the four years immediately preceding the date of appointment, but is not otherwise eligible for assignment as provided by Paragraph (A);
- (4) not have been defeated for reelection to a judicial office;
- (5) not have been removed from office by impeachment, by the supreme court, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct, or by the legislature's abolition of the judge's court; and
- (6) not have resigned from office after having received

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notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022, Government Code, and before the final disposition of the proceedings.

Sec. 469.053. DESIGNATION OF HOST COUNTY.

(a) Subject to the approval of the commissioners court of the proposed host county, the presiding judges of the administrative judicial regions by majority vote shall determine the host county of an associate judge appointed under this subchapter.

(b) The host county shall provide an adequate courtroom and quarters, including furniture, necessary utilities, and telephone equipment and service, for the associate judge and other personnel assisting the associate judge.

(c) An associate judge is not required to reside in the host county.

Sec. 469.054. ORDER OF REFERRALS; GENERAL POWERS OF ASSOCIATE JUDGE. (a) To refer cases involving defendants who are eligible to participate in the drug court program to an associate judge appointed under this subchapter, the referring court must issue an order of referral specifying the associate judge's duties.

(b) An order of referral issued under this section must be consistent with the court referral protocol established for the associate judge under Section 469.051(d). In the event of a conflict between the order of referral and the court referral protocol, the order of referral controls.

(c) An order of referral may:

(1) limit the powers of the associate judge and direct the

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associate judge to report on specific issues and perform particular acts;

(2) set the time and place for a hearing;

(3) specify a date for filing the associate judge's findings;

(4) designate proceedings for more than one case over which the associate judge presides; and

(5) set forth general powers and limitations of authority of the associate judge applicable to any case referred.

(d) Except as limited by an order of referral, an associate judge to whom a case is referred may perform any act necessary and proper for the efficient performance of the associate judge's duties under an order of referral.

Sec. 469.055. COURT REPORTER; RECORD. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. At the request of a party, the associate judge shall provide a court reporter to record the proceedings before the judge.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the record may be preserved by any means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record under Subsection (c) as costs.

Sec. 469.056. JUDICIAL ACTION. (a) A referring

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court may modify, correct, reject, reverse, or recommit for further information any action taken by the associate judge.

(b) If the referring court does not modify, correct, reject, reverse, or recommit an action of the associate judge before the 31st day after the date the associate judge takes the action, the action becomes the decree of the court.

Sec. 469.057. JUDICIAL IMMUNITY. An associate judge has the same judicial immunity as a district judge.

Sec. 469.058. COMPENSATION. (a) An associate judge appointed under this subchapter is entitled to a salary as determined by a majority vote of the presiding judges of the administrative judicial regions. The salary may not exceed 90 percent of the salary paid to a district judge as set by the state General Appropriations Act.

(b) The associate judge's salary shall be paid from funds available as provided by this subchapter.

Sec. 469.059. PERSONNEL. (a) The presiding judge of an administrative judicial region who appointed an associate judge under this subchapter or the presiding judges of the administrative judicial regions, by majority vote, may appoint personnel as needed to implement and administer the provisions of this subchapter.

(b) The salaries of the personnel shall be paid from funds available as provided by this subchapter.

Sec. 469.060. SUPERVISION OF ASSOCIATE JUDGES. The office of court administration shall assist the presiding judges in:

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(1) monitoring the associate judges' compliance with any applicable job performance standards, uniform practices adopted by the presiding judges, and federal and state laws and policies;

(2) addressing the training needs and resource requirements of the associate judges;

(3) conducting annual performance evaluations for the associate judges and other personnel appointed under this subchapter based on written personnel performance standards adopted by the presiding judges; and

(4) receiving, investigating, and resolving complaints about particular associate judges or the associate judge program under this subchapter based on a uniform process adopted by the presiding judges.

Sec. 469.061. FUNDING. (a) The office of court administration may contract for available state, county, and federal funds from any source and may employ personnel needed to implement and administer this subchapter. An associate judge and other personnel appointed under this subchapter are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(b) The presiding judges of the administrative judicial regions, state agencies, and counties may contract for available federal funds from any source to reimburse costs and salaries associated with associate judges and personnel appointed under this subchapter and may also use available state and county funds and public or private grants.

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(c) The presiding judges and the office of court administration in cooperation with other agencies shall take action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

Sec. 469.062. ASSIGNMENT OF JUDGES AND APPOINTMENT OF VISITING ASSOCIATE JUDGES. (a) This subchapter does not limit the authority of a presiding judge to assign a judge eligible for assignment under Chapter 74, Government Code, to administer a drug court program under this subchapter.

(b) If an associate judge appointed under this subchapter is temporarily unable to perform the associate judge's official duties because of absence resulting from family circumstances, illness, injury, disability, or military service, or if there is a vacancy in the position of associate judge, the presiding judge of the administrative judicial region in which the associate judge serves or the vacancy occurs may appoint a visiting associate judge to perform the duties of the associate judge during the period the associate judge is unable to perform the associate judge's duties or until another associate judge is appointed to fill the vacancy.

(c) A person is not eligible for appointment under this section unless the person has served as an associate judge, a district judge, or a county court judge for at least two years before the date of appointment.

(d) A visiting associate judge appointed under this section is subject to each provision of this subchapter

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that applies to an associate judge serving under a regular appointment under this subchapter. A visiting associate judge appointed under this section is entitled to compensation, to be determined by a majority vote of the presiding judges of the administrative judicial regions, through use of funds under this subchapter. A visiting associate judge is not considered to be a state employee for any purpose.

(e) Section 2252.901, Government Code, does not apply to the appointment of a visiting associate judge under this section.

Sec. 469.063. LIMITATION ON LAW PRACTICE BY ASSOCIATE JUDGE. An associate judge appointed under this subchapter may not engage in the private practice of law.

No equivalent provision.

SECTION __. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes

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of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2009.

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SECTION 4. Same as House version.

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