

1-1 By: Carona S.B. No. 1607
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 6, 2011, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 6, 2011, sent to printer.)

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

1-8 relating to the duties and responsibilities of certain county
1-9 officials and the functions of county government.

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

1-11 SECTION 1. Subsection (b), Section 51.305, Government Code,
1-12 is amended to read as follows:

1-13 (b) The commissioners court of a county may adopt a district
1-14 court records archive fee of not more than \$5 for the filing of a
1-15 suit, including an appeal from an inferior court, or a
1-16 cross-action, counterclaim, intervention, contempt action, motion
1-17 for new trial, or third-party petition, in a district court or
1-18 statutory county court, if the court exercises concurrent
1-19 jurisdiction over the suit with a district court, in the county as
1-20 part of the county's annual budget. The fee must be set and
1-21 itemized in the county's budget as part of the budget preparation
1-22 process and must be approved in a public meeting. The fee is for
1-23 preservation and restoration services performed in connection with
1-24 maintaining a district court records archive.

1-25 SECTION 2. Subsection (c), Section 51.605, Government Code,
1-26 is amended to read as follows:

1-27 (c) A clerk must each year [~~annually~~] complete 20 hours of
1-28 continuing education courses including at least one hour of
1-29 continuing education courses regarding registry funds handled
1-30 under Chapter 117, Local Government Code, in the performance of the
1-31 duties of office. The 20 hours of required continuing education
1-32 courses must include at least one hour of continuing education
1-33 regarding fraudulent court documents and fraudulent document
1-34 filings.

1-35 SECTION 3. Subsection (a), Section 62.106, Government Code,
1-36 is amended to read as follows:

1-37 (a) A person qualified to serve as a petit juror may
1-38 establish an exemption from jury service if the person:

1-39 (1) is over 70 years of age;

1-40 (2) has legal custody of a child younger than 12 [~~15~~]
1-41 years of age and the person's service on the jury requires leaving
1-42 the child without adequate supervision;

1-43 (3) is a student of a public or private secondary
1-44 school;

1-45 (4) is a person enrolled and in actual attendance at an
1-46 institution of higher education;

1-47 (5) is an officer or an employee of the senate, the
1-48 house of representatives, or any department, commission, board,
1-49 office, or other agency in the legislative branch of state
1-50 government;

1-51 (6) is summoned for service in a county with a
1-52 population of at least 200,000, unless that county uses a jury plan
1-53 under Section 62.011 and the period authorized under Section
1-54 62.011(b)(5) exceeds two years, and the person has served as a petit
1-55 juror in the county during the 24-month period preceding the date
1-56 the person is to appear for jury service;

1-57 (7) is the primary caretaker of a person who is an
1-58 invalid unable to care for himself;

1-59 (8) except as provided by Subsection (b), is summoned
1-60 for service in a county with a population of at least 250,000 and
1-61 the person has served as a petit juror in the county during the
1-62 three-year period preceding the date the person is to appear for
1-63 jury service; or

1-64 (9) is a member of the United States military forces

2-1 serving on active duty and deployed to a location away from the
2-2 person's home station and out of the person's county of residence.

2-3 SECTION 4. Subchapter E, Chapter 101, Government Code, is
2-4 amended by adding Section 101.08118 to read as follows:

2-5 Sec. 101.08118. ADDITIONAL STATUTORY COUNTY COURT FEES:
2-6 LOCAL GOVERNMENT CODE. The clerk of a statutory county court shall
2-7 collect a district court records archive fee of not more than \$5
2-8 under Section 118.068, Local Government Code, if adopted by the
2-9 county commissioners court.

2-10 SECTION 5. Subchapter F, Chapter 101, Government Code, is
2-11 amended by adding Section 101.10117 to read as follows:

2-12 Sec. 101.10117. ADDITIONAL STATUTORY PROBATE COURT FEES:
2-13 LOCAL GOVERNMENT CODE. The clerk of a statutory probate court shall
2-14 collect a district court records archive fee of not more than \$5
2-15 under Section 118.068, Local Government Code, if adopted by the
2-16 county commissioners court.

2-17 SECTION 6. Section 191.0045, Health and Safety Code, is
2-18 amended by amending Subsection (h) and adding Subsection (i) to
2-19 read as follows:

2-20 (h) In addition to other fees collected under this section,
2-21 a local registrar or county clerk may collect a fee not to exceed \$1
2-22 for:

2-23 (1) preserving [the preservation of] vital statistics
2-24 records maintained by the registrar or county clerk, including
2-25 birth, death, fetal death, marriage, divorce, and annulment
2-26 records;

2-27 (2) training registrar or county clerk employees
2-28 regarding vital statistics records; and

2-29 (3) ensuring the safety and security of vital
2-30 statistics records.

2-31 (i) A fee under this section shall be collected by the
2-32 registrar or county clerk on the issuance of a vital statistics
2-33 record, including a record issued through a Remote Birth Access
2-34 site.

2-35 SECTION 7. Section 118.051, Local Government Code, is
2-36 amended to read as follows:

2-37 Sec. 118.051. CLERICAL DUTIES. Except as provided by
2-38 Sections [Section] 118.067 and 118.068, the fees listed in this
2-39 subchapter for county civil court dockets under Section 118.052(1)
2-40 and county probate court dockets under Section 118.052(2) are fees
2-41 for all clerical duties performed in connection with the docket,
2-42 including:

2-43 (1) filing, registering or recording, docketing, and
2-44 taxing costs for an application, will, complaint, petition, return,
2-45 document, or proceeding;

2-46 (2) issuing and recording the return of a citation,
2-47 notice, subpoena, commission to take depositions, execution while
2-48 the docket is still open (civil docket), garnishment before
2-49 judgment (civil docket), order, writ, process, or any other
2-50 document authorized or required to be issued by the clerk on which a
2-51 return must be recorded;

2-52 (3) attendances in court as clerk of the court;

2-53 (4) impaneling a jury (civil docket);

2-54 (5) swearing witnesses;

2-55 (6) approving bonds involved in court action; and

2-56 (7) administering oaths.

2-57 SECTION 8. Section 118.052, Local Government Code, is
2-58 amended to read as follows:

2-59 Sec. 118.052. FEE SCHEDULE. Each clerk of a county court
2-60 shall collect the following fees for services rendered to any
2-61 person:

2-62 (1) CIVIL COURT ACTIONS

2-63 (A) Filing of Original Action (Sec. 118.053):

2-64 (i) Garnishment after judgment . . . \$15.00

2-65 (ii) All others . . . \$40.00

2-66 (B) Filing of Action Other than Original (Sec.
2-67 118.054) . . . \$30.00

2-68 (C) Services Rendered After Judgment in Original
2-69 Action (Sec. 118.0545):

- 3-1 (i) Abstract of judgment . . . \$5.00
- 3-2 (ii) Execution, order of sale, writ, or
- 3-3 other process . . . \$5.00
- 3-4 (2) PROBATE COURT ACTIONS
- 3-5 (A) Probate Original Action (Sec. 118.055):
- 3-6 (i) Probate of a will with independent
- 3-7 executor, administration with will attached, administration of an
- 3-8 estate, guardianship or receivership of an estate, or muniment of
- 3-9 title . . . \$40.00
- 3-10 (ii) Community survivors . . . \$40.00
- 3-11 (iii) Small estates . . . \$40.00
- 3-12 (iv) Declarations of heirship . . . \$40.00
- 3-13 (v) Mental health or chemical dependency
- 3-14 services . . . \$40.00
- 3-15 (vi) Additional, special fee (Sec. 118.064)
- 3-16 . . . \$5.00
- 3-17 (B) Services in Pending Probate Action (Sec.
- 3-18 118.056):
- 3-19 (i) Filing an inventory and appraisement as
- 3-20 provided by Section 118.056(d) . . . \$25.00
- 3-21 (ii) Approving and recording bond . . .
- 3-22 \$3.00
- 3-23 (iii) Administering oath . . . \$2.00
- 3-24 (iv) Filing annual or final account of
- 3-25 estate . . . \$25.00
- 3-26 (v) Filing application for sale of real or
- 3-27 personal property . . . \$25.00
- 3-28 (vi) Filing annual or final report of
- 3-29 guardian of a person . . . \$10.00
- 3-30 (vii) Filing a document not listed under
- 3-31 this paragraph after the filing of an order approving the inventory
- 3-32 and appraisement or after the 120th day after the date of the
- 3-33 initial filing of the action, whichever occurs first, if more than
- 3-34 25 pages . . . \$25.00
- 3-35 (C) Adverse Probate Action (Sec. 118.057) . . .
- 3-36 \$40.00
- 3-37 (D) Claim Against Estate (Sec. 118.058) . . .
- 3-38 \$2.00
- 3-39 (E) Supplemental Court-Initiated Guardianship
- 3-40 Fee in Probate Original Actions and Adverse Probate Actions (Sec.
- 3-41 118.067) . . . \$20.00
- 3-42 (3) OTHER FEES
- 3-43 (A) Issuing Document (Sec. 118.059):
- 3-44 original document and one copy . . . \$4.00
- 3-45 each additional set of an original and one copy
- 3-46 . . . \$4.00
- 3-47 (B) Certified Papers (Sec. 118.060):
- 3-48 for the clerk's certificate . . . \$5.00
- 3-49 plus a fee per page or part of a page of . . . \$1.00
- 3-50 (C) Noncertified Papers (Sec. 118.0605):
- 3-51 for each page or part of a page . . . \$1.00
- 3-52 (D) Letters Testamentary, Letter of
- 3-53 Guardianship, Letter of Administration, or Abstract of Judgment
- 3-54 (Sec. 118.061) . . . \$2.00
- 3-55 (E) Safekeeping of Wills (Sec. 118.062) . . .
- 3-56 \$5.00
- 3-57 (F) Mail Service of Process (Sec. 118.063) . . .
- 3-58 same as sheriff
- 3-59 (G) Records Management and Preservation Fee
- 3-60 . . . \$5.00
- 3-61 (H) District Court Records Archive Fee . . .
- 3-62 \$5.00
- 3-63 SECTION 9. Subchapter C, Chapter 118, Local Government
- 3-64 Code, is amended by adding Section 118.068 to read as follows:
- 3-65 Sec. 118.068. DISTRICT COURT RECORDS ARCHIVE FEE. (a) If
- 3-66 adopted by the commissioners court, the clerk of a county court
- 3-67 shall collect a district court records archive fee of not more than
- 3-68 \$5 when a person files a suit in a statutory county court for which
- 3-69 the court exercises concurrent jurisdiction with a district court,

4-1 including an appeal from an inferior court, or a cross-action,
4-2 counterclaim, intervention, contempt action, motion for new trial,
4-3 or third-party petition.

4-4 (b) The fee imposed under this section does not apply to a
4-5 filing by a state agency.

4-6 (c) The county clerk, after collecting a fee under this
4-7 section, shall pay the fee to the county treasurer, or to an
4-8 official who discharges the duties commonly delegated to the county
4-9 treasurer, for deposit to the district court records technology
4-10 fund established under Section 51.305, Government Code.

4-11 SECTION 10. Subsection (a), Section 132.002, Local
4-12 Government Code, is amended to read as follows:

4-13 (a) The commissioners court of a county may authorize a
4-14 county or precinct officer who collects fees, fines, court costs,
4-15 or other charges on behalf of the county or the state to accept
4-16 payment by credit card or check verified electronically of a fee,
4-17 fine, court costs, or other charge. The commissioners court may
4-18 also authorize a county or precinct officer to collect and retain a
4-19 fee for processing the payment by credit card or check verified
4-20 electronically.

4-21 SECTION 11. Section 191.030, Health and Safety Code, is
4-22 repealed.

4-23 SECTION 12. (a) Section 51.607, Government Code, does not
4-24 apply to a fee imposed under Section 118.068, Local Government
4-25 Code, as added by this Act, or Section 101.08118 or 101.10117,
4-26 Government Code, as added by this Act.

4-27 (b) The change in law made by this Act applies only to the
4-28 imposition of a fee on a filing in a civil action or proceeding made
4-29 on or after the effective date of an order of a commissioners court
4-30 authorizing imposition of the fee. The imposition of a fee on a
4-31 filing made before that date is governed by the law in effect on the
4-32 date the filing was made, and the former law is continued in effect
4-33 for that purpose.

4-34 SECTION 13. This Act takes effect immediately if it
4-35 receives a vote of two-thirds of all the members elected to each
4-36 house, as provided by Section 39, Article III, Texas Constitution.
4-37 If this Act does not receive the vote necessary for immediate
4-38 effect, this Act takes effect September 1, 2011.

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