

By: Lozano, King of Zavala

H.B. No. 1713

Substitute the following for H.B. No. 1713:

By: Herrero

C.S.H.B. No. 1713

A BILL TO BE ENTITLED

AN ACT

relating to reimbursing property owners in certain counties for damages caused by certain criminal activities; authorizing a fee.

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

SECTION 1. Article 18.17, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k)(1) This subsection applies to any property described by Subsection (a) that is seized by a peace officer during the investigation of an offense under Section 20.05 or 38.04, Penal Code, or any offense under Chapter 20A, Penal Code, alleged to have occurred in a county with a population of:

(A) 40,000 or more but less than 41,000;

(B) 32,000 or more but less than 32,300;

(C) 31,000 or more but less than 32,000;

(D) 22,000 or more but less than 22,150;

(E) 11,000 or more but less than 11,600;

(F) 650 or more but less than 800;

(G) 300 or more but less than 600; or

(H) less than 8,000 and that is adjacent to a county described by Paragraph (G).

(2) Notwithstanding any other provision of this article, the sale proceeds of property described by Subdivision (1) shall be deposited, after deducting the reasonable expense of keeping and disposing of the property, in a fund in the treasury of

1 the county in which the offense occurred.

2 (3) A county to which this subsection applies may use
3 money in the fund only to reimburse a property owner in the county
4 for all or any portion of damages to a gate or fence located on
5 property owned by the person if:

6 (A) the property is located in the county; and

7 (B) the damage was the result of the commission
8 of an offense listed in Subdivision (1).

9 (4) A county to which this subsection applies may
10 require a property owner to submit an application and provide
11 information requested by the county in order to be eligible for
12 reimbursement under this subsection.

13 SECTION 2. Article 18.18, Code of Criminal Procedure, is
14 amended by amending Subsections (f) and (g) and adding Subsection
15 (f-1) to read as follows:

16 (f) If a person timely appears to show cause why the
17 property or proceeds should not be destroyed or forfeited, the
18 magistrate shall conduct a hearing on the issue and determine the
19 nature of property or proceeds and the person's interest
20 therein. Unless the person proves by a preponderance of the
21 evidence that the property or proceeds is not gambling equipment,
22 altered gambling equipment, gambling paraphernalia, gambling
23 device, gambling proceeds, prohibited weapon, obscene device or
24 material, child pornography, criminal instrument, scanning device
25 or re-encoder, or dog-fighting equipment and that the person ~~he~~
26 is entitled to possession, the magistrate shall dispose of the
27 property or proceeds in accordance with Subsection ~~Paragraph~~ (a)

1 or, if applicable, Subsection (f-1) [~~of this article~~].

2 (f-1)(1) This subsection applies only to a county with a
3 population of:

4 (A) 40,000 or more but less than 41,000;

5 (B) 32,000 or more but less than 32,300;

6 (C) 31,000 or more but less than 32,000;

7 (D) 22,000 or more but less than 22,150;

8 (E) 11,000 or more but less than 11,600;

9 (F) 650 or more but less than 800;

10 (G) 300 or more but less than 600; or

11 (H) less than 8,000 and that is adjacent to a
12 county described by Paragraph (G).

13 (2) If the property is used in an offense under Section
14 20.05 or 38.04, Penal Code, or any offense under Chapter 20A, Penal
15 Code, and the property is a motor vehicle, the magistrate shall
16 order the property be delivered to the purchasing agent of the
17 county in which the offense occurred, or the sheriff of the county
18 if the county has no purchasing agent. The county purchasing agent
19 or sheriff shall sell the property and deposit the sale proceeds,
20 after deducting the reasonable expense of keeping and disposing of
21 the property, in a fund in the treasury of the county in which the
22 offense occurred. When offering the property for sale, if the
23 purchasing agent or sheriff considers any bid to be insufficient,
24 the agent or sheriff may decline the bid and reoffer the property
25 for sale.

26 (3) Any proceeds or money seized under this article
27 shall be deposited in a fund described by Subdivision (2) in the

1 county in which the offense occurred.

2 (4) A county may use money in the fund described by
3 Subdivision (2) only to reimburse a property owner in the county for
4 all or any portion of damages to a gate or fence located on property
5 owned by the person if:

6 (A) the property is located in the county; and

7 (B) the damage was the result of an offense under
8 Section 20.05 or 38.04, Penal Code, or any offense under Chapter
9 20A, Penal Code.

10 (5) A county may require a property owner to submit an
11 application and provide information requested by the county in
12 order to be eligible for reimbursement under Subdivision (4).

13 (g) For purposes of this article:

14 (1) "criminal instrument" has the meaning defined in
15 the Penal Code;

16 (2) "gambling device or equipment, altered gambling
17 equipment or gambling paraphernalia" has the meaning defined in the
18 Penal Code;

19 (3) "prohibited weapon" has the meaning defined in the
20 Penal Code;

21 (4) "dog-fighting equipment" means:

22 (A) equipment used for training or handling a
23 fighting dog, including a harness, treadmill, cage, decoy, pen,
24 house for keeping a fighting dog, feeding apparatus, or training
25 pen;

26 (B) equipment used for transporting a fighting
27 dog, including any automobile, or other vehicle, and its

1 appurtenances which are intended to be used as a vehicle for
2 transporting a fighting dog;

3 (C) equipment used to promote or advertise an
4 exhibition of dog fighting, including a printing press or similar
5 equipment, paper, ink, or photography equipment; or

6 (D) a dog trained, being trained, or intended to
7 be used to fight with another dog;

8 (5) "obscene device" and "obscene" have the meanings
9 assigned by Section 43.21, Penal Code;

10 (6) "re-encoder" has the meaning assigned by Section
11 522.001, Business & Commerce Code;

12 (7) "scanning device" has the meaning assigned by
13 Section 522.001, Business & Commerce Code; ~~and~~

14 (8) "obscene material" and "child pornography"
15 include digital images and the media and equipment on which those
16 images are stored; and

17 (9) "motor vehicle" has the meaning assigned by
18 Section 501.002, Transportation Code.

19 SECTION 3. Section 19, Article 42.12, Code of Criminal
20 Procedure, is amended by adding Subsection (h) to read as follows:

21 (h)(1) This subsection applies only to a county with a
22 population of:

23 (A) 40,000 or more but less than 41,000;

24 (B) 32,000 or more but less than 32,300;

25 (C) 31,000 or more but less than 32,000;

26 (D) 22,000 or more but less than 22,150;

27 (E) 11,000 or more but less than 11,600;

1 (F) 650 or more but less than 800;

2 (G) 300 or more but less than 600; or

3 (H) less than 8,000 and that is adjacent to a
4 county described by Paragraph (G).

5 (2) If a judge grants community supervision to a
6 defendant convicted of an offense under Section 20.05 or 38.04,
7 Penal Code, or any offense under Chapter 20A, Penal Code, that
8 occurred in a county to which this subsection applies, the judge may
9 require the defendant to pay a fee of \$15. The judge shall deposit
10 any fee received under this subsection in the fund described by
11 Article 18.17(k) in the treasury of the county in which the offense
12 occurred, to be used as provided by that article.

13 SECTION 4. Section 102.021, Government Code, is amended to
14 read as follows:

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

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

23 (2) a fee for services of prosecutor (Art. 102.008,
24 Code of Criminal Procedure) . . . \$25;

25 (3) fees for services of peace officer:

26 (A) issuing a written notice to appear in court
27 for certain violations (Art. 102.011, Code of Criminal Procedure)

- 1 . . . \$5;
- 2 (B) executing or processing an issued arrest
- 3 warrant, *capias*, or *capias pro fine* (Art. 102.011, Code of Criminal
- 4 Procedure) . . . \$50;
- 5 (C) summoning a witness (Art. 102.011, Code of
- 6 Criminal Procedure) . . . \$5;
- 7 (D) serving a writ not otherwise listed (Art.
- 8 102.011, Code of Criminal Procedure) . . . \$35;
- 9 (E) taking and approving a bond and, if
- 10 necessary, returning the bond to courthouse (Art. 102.011, Code of
- 11 Criminal Procedure) . . . \$10;
- 12 (F) commitment or release (Art. 102.011, Code of
- 13 Criminal Procedure) . . . \$5;
- 14 (G) summoning a jury (Art. 102.011, Code of
- 15 Criminal Procedure) . . . \$5;
- 16 (H) attendance of a prisoner in habeas corpus
- 17 case if prisoner has been remanded to custody or held to bail (Art.
- 18 102.011, Code of Criminal Procedure) . . . \$8 each day;
- 19 (I) mileage for certain services performed (Art.
- 20 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
- 21 (J) services of a sheriff or constable who serves
- 22 process and attends examining trial in certain cases (Art. 102.011,
- 23 Code of Criminal Procedure) . . . not to exceed \$5;
- 24 (4) services of a peace officer in conveying a witness
- 25 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
- 26 \$10 per day or part of a day, plus actual necessary travel expenses;
- 27 (5) overtime of peace officer for time spent

- 1 testifying in the trial or traveling to or from testifying in the
2 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
- 3 (6) court costs on an offense relating to rules of the
4 road, when offense occurs within a school crossing zone (Art.
5 102.014, Code of Criminal Procedure) . . . \$25;
- 6 (7) court costs on an offense of passing a school bus
7 (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- 8 (8) court costs on an offense of truancy or
9 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
10 . . . \$20;
- 11 (9) cost for visual recording of intoxication arrest
12 before conviction (Art. 102.018, Code of Criminal Procedure) . . .
13 \$15;
- 14 (10) cost of certain evaluations (Art. 102.018, Code
15 of Criminal Procedure) . . . actual cost;
- 16 (11) additional costs attendant to certain
17 intoxication convictions under Chapter 49, Penal Code, for
18 emergency medical services, trauma facilities, and trauma care
19 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- 20 (12) additional costs attendant to certain child
21 sexual assault and related convictions, for child abuse prevention
22 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;
- 23 (13) court cost for DNA testing for certain felonies
24 (Art. 102.020(a)(1), Code of Criminal Procedure) . . . \$250;
- 25 (14) court cost for DNA testing for the offense of
26 public lewdness or indecent exposure (Art. 102.020(a)(2), Code of
27 Criminal Procedure) . . . \$50;

1 (15) court cost for DNA testing for certain felonies
2 (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;

3 (16) if required by the court, a restitution fee for
4 costs incurred in collecting restitution installments and for the
5 compensation to victims of crime fund (Art. 42.037, Code of
6 Criminal Procedure) . . . \$12;

7 (17) if directed by the justice of the peace or
8 municipal court judge hearing the case, court costs on conviction
9 in a criminal action (Art. 45.041, Code of Criminal Procedure)
10 . . . part or all of the costs as directed by the judge; ~~and~~

11 (18) costs attendant to convictions under Chapter 49,
12 Penal Code, and under Chapter 481, Health and Safety Code, to help
13 fund drug court programs established under Chapter 469, Health and
14 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$60;
15 and

16 (19) a fee to reimburse property owners in certain
17 counties for damage resulting from an offense under Section 20.05
18 or 38.04, Penal Code, or any offense under Chapter 20A, Penal Code
19 (Sec. 19(h), Art. 42.12, Code of Criminal Procedure) . . . \$15.

20 SECTION 5. Section 19(h), Article 42.12, Code of Criminal
21 Procedure, as added by this Act, applies only to a defendant
22 initially placed on community supervision on or after the effective
23 date of this Act. A defendant initially placed on community
24 supervision before the effective date of this Act is governed by the
25 law in effect immediately before the effective date of this Act, and
26 the former law is continued in effect for that purpose.

27 SECTION 6. This Act takes effect September 1, 2013.