

By: Lozano

H.B. No. 1713

A BILL TO BE ENTITLED

AN ACT

relating to reimbursing property owners for certain damages caused by 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.

(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 the county in which the offense occurred.

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

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

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

(4) A county may require a property owner to submit an application and provide information requested by the county in

1 order to be eligible for reimbursement under this subsection.

2 SECTION 2. Article 18.18, Code of Criminal Procedure, is
3 amended by amending Subsections (f) and (g) and adding Subsections
4 (f-1), (f-2), and (f-3) to read as follows:

5 (f) If a person timely appears to show cause why the
6 property or proceeds should not be destroyed or forfeited, the
7 magistrate shall conduct a hearing on the issue and determine the
8 nature of property or proceeds and the person's interest
9 therein. Unless the person proves by a preponderance of the
10 evidence that the property or proceeds is not gambling equipment,
11 altered gambling equipment, gambling paraphernalia, gambling
12 device, gambling proceeds, prohibited weapon, obscene device or
13 material, child pornography, criminal instrument, scanning device
14 or re-encoder, or dog-fighting equipment and that the person [~~he~~]
15 is entitled to possession, the magistrate shall dispose of the
16 property or proceeds in accordance with Subsection [~~Paragraph~~] (a),
17 (f-1), or (f-2) [~~of this article~~].

18 (f-1) If the property is used in an offense under Section
19 20.05 or 38.04, Penal Code, or any offense under Chapter 20A, Penal
20 Code, and the property is a motor vehicle, the magistrate shall
21 order the property be delivered to the purchasing agent of the
22 county in which the offense occurred, or the sheriff of the county
23 if the county has no purchasing agent. The county purchasing agent
24 or sheriff shall sell the property and deposit the sale proceeds,
25 after deducting the reasonable expense of keeping and disposing of
26 the property, in a fund in the treasury of the county in which the
27 offense occurred. When offering the property for sale, if the

1 purchasing agent or sheriff considers any bid to be insufficient,
2 the agent or sheriff may decline the bid and reoffer the property
3 for sale.

4 (f-2) Any proceeds or money seized under this article shall
5 be deposited in a fund described by Subsection (f-1) in the county
6 in which the offense occurred.

7 (f-3)(1) A county may use money in the fund described by
8 Subsection (f-1) only to reimburse a property owner in the county
9 for all or any portion of damages to a gate or fence located on
10 property owned by the person if:

11 (A) the property is located in the county; and
12 (B) the damage was the result of an offense under
13 Section 20.05 or 38.04, Penal Code, or any offense under Chapter
14 20A, Penal Code.

15 (2) A county may require a property owner to submit an
16 application and provide information requested by the county in
17 order to be eligible for reimbursement under this subsection.

18 (g) For purposes of this article:

19 (1) "criminal instrument" has the meaning defined in
20 the Penal Code;

21 (2) "gambling device or equipment, altered gambling
22 equipment or gambling paraphernalia" has the meaning defined in the
23 Penal Code;

24 (3) "prohibited weapon" has the meaning defined in the
25 Penal Code;

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

27 (A) equipment used for training or handling a

1 fighting dog, including a harness, treadmill, cage, decoy, pen,
2 house for keeping a fighting dog, feeding apparatus, or training
3 pen;

4 (B) equipment used for transporting a fighting
5 dog, including any automobile, or other vehicle, and its
6 appurtenances which are intended to be used as a vehicle for
7 transporting a fighting dog;

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

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

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

15 (6) "re-encoder" has the meaning assigned by Section
16 522.001, Business & Commerce Code;

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

19 (8) "obscene material" and "child pornography"
20 include digital images and the media and equipment on which those
21 images are stored; and

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

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

26 (h) If a judge grants community supervision to a defendant
27 convicted of an offense under Section 20.05 or 38.04, Penal Code, or

1 any offense under Chapter 20A, Penal Code, the judge may require the
2 defendant to pay a fee of \$15. The judge shall deposit any fee
3 received under this subsection in the fund described by Article
4 18.17(k) in the treasury of the county in which the offense
5 occurred, to be used as provided by that article.

6 SECTION 4. Section 102.021, Government Code, is amended to
7 read as follows:

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

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

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

18 (3) fees for services of peace officer:

19 (A) issuing a written notice to appear in court
20 for certain violations (Art. 102.011, Code of Criminal Procedure)
21 . . . \$5;

22 (B) executing or processing an issued arrest
23 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal
24 Procedure) . . . \$50;

25 (C) summoning a witness (Art. 102.011, Code of
26 Criminal Procedure) . . . \$5;

27 (D) serving a writ not otherwise listed (Art.

1 102.011, Code of Criminal Procedure) . . . \$35;

2 (E) taking and approving a bond and, if
3 necessary, returning the bond to courthouse (Art. 102.011, Code of
4 Criminal Procedure) . . . \$10;

5 (F) commitment or release (Art. 102.011, Code of
6 Criminal Procedure) . . . \$5;

7 (G) summoning a jury (Art. 102.011, Code of
8 Criminal Procedure) . . . \$5;

9 (H) attendance of a prisoner in habeas corpus
10 case if prisoner has been remanded to custody or held to bail (Art.
11 102.011, Code of Criminal Procedure) . . . \$8 each day;

12 (I) mileage for certain services performed (Art.
13 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

14 (J) services of a sheriff or constable who serves
15 process and attends examining trial in certain cases (Art. 102.011,
16 Code of Criminal Procedure) . . . not to exceed \$5;

17 (4) services of a peace officer in conveying a witness
18 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
19 \$10 per day or part of a day, plus actual necessary travel expenses;

20 (5) overtime of peace officer for time spent
21 testifying in the trial or traveling to or from testifying in the
22 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

23 (6) court costs on an offense relating to rules of the
24 road, when offense occurs within a school crossing zone (Art.
25 102.014, Code of Criminal Procedure) . . . \$25;

26 (7) court costs on an offense of passing a school bus
27 (Art. 102.014, Code of Criminal Procedure) . . . \$25;

1 (8) court costs on an offense of truancy or
2 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
3 . . . \$20;

4 (9) cost for visual recording of intoxication arrest
5 before conviction (Art. 102.018, Code of Criminal Procedure) . . .
6 \$15;

7 (10) cost of certain evaluations (Art. 102.018, Code
8 of Criminal Procedure) . . . actual cost;

9 (11) additional costs attendant to certain
10 intoxication convictions under Chapter 49, Penal Code, for
11 emergency medical services, trauma facilities, and trauma care
12 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

13 (12) additional costs attendant to certain child
14 sexual assault and related convictions, for child abuse prevention
15 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

16 (13) court cost for DNA testing for certain felonies
17 (Art. 102.020(a)(1), Code of Criminal Procedure) . . . \$250;

18 (14) court cost for DNA testing for the offense of
19 public lewdness or indecent exposure (Art. 102.020(a)(2), Code of
20 Criminal Procedure) . . . \$50;

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

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

27 (17) if directed by the justice of the peace or

1 municipal court judge hearing the case, court costs on conviction
2 in a criminal action (Art. 45.041, Code of Criminal Procedure)
3 . . . part or all of the costs as directed by the judge; [~~and~~]

4 (18) costs attendant to convictions under Chapter 49,
5 Penal Code, and under Chapter 481, Health and Safety Code, to help
6 fund drug court programs established under Chapter 469, Health and
7 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$60;
8 and

9 (19) a fee to reimburse property owners for damage
10 resulting from an offense under Section 20.05 or 38.04, Penal Code,
11 or any offense under Chapter 20A, Penal Code (Sec. 19(h), Art.
12 42.12, Code of Criminal Procedure) . . . \$15.

13 SECTION 5. Section 19(h), Article 42.12, Code of Criminal
14 Procedure, as added by this Act, applies only to a defendant
15 initially placed on community supervision on or after the effective
16 date of this Act. A defendant initially placed on community
17 supervision before the effective date of this Act is governed by the
18 law in effect immediately before the effective date of this Act, and
19 the former law is continued in effect for that purpose.

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