

House Bill 2302
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Chapter 21, Government Code, is amended by adding Section 21.011 to read as follows:

Sec. 21.011. ELECTRONIC OR DIGITAL SIGNATURE. A judge or justice presiding over a court in this state may sign an electronic or digital court document, including an order, judgment, ruling, notice, commission, or precept, electronically, digitally, or through another secure method. The document signed in that manner is the official document issued by the court.

SECTION 2. Chapter 51, Government Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ELECTRONIC FILING FEE

Sec. 51.851. ELECTRONIC FILING FEE. (a) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

(b) In addition to other fees authorized or required by law, the clerk of the supreme court, a court of appeals, a district court, a county court, a statutory county court, or a statutory probate court shall collect a \$20 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(c) In addition to other fees authorized or required by law, the clerk of a justice court shall collect a \$10 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(d) In addition to other court costs, a person shall pay \$5 as a

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SECTION 1. Same as House version.

SECTION 2. Chapter 51, Government Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ELECTRONIC FILING FEE

Sec. 51.851. ELECTRONIC FILING FEE. (a) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

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(c) In addition to other fees authorized or required by law, the clerk of a justice court shall collect a \$10 fee on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to be used as provided by Section 51.852.

(d) In addition to other court costs, a person shall pay \$5 as a

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court cost on conviction of any criminal offense in a district court, county court, or statutory county court.

(e) A court may waive payment of a court cost or fee due under this section for an individual the court determines is indigent.

(f) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(g) The clerk shall send the court costs and fees collected under this section to the comptroller not later than the last day of the month following each calendar quarter.

(h) The comptroller shall deposit the court costs and fees received under this section to the credit of the statewide electronic filing system fund established under Section 51.852.

(i) The comptroller may audit the records of a county related to costs and fees collected under this section.

(j) Money spent from costs and fees collected under this section is subject to audit by the state auditor.

Sec. 51.852. STATEWIDE ELECTRONIC FILING SYSTEM FUND. (a) The statewide electronic filing system fund is an account in the general revenue fund.

(b) Money in the statewide electronic filing system fund may only be appropriated to the Office of Court Administration of the Texas Judicial System and used to:

(1) support a statewide electronic filing technology project

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court cost on conviction of any criminal offense in a district court, county court, or statutory county court.

(e) A court may waive payment of a court cost or fee due under this section for an individual the court determines is indigent.

(f) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs in the case.

(g) The clerk of a district court, a county court, a statutory county court, a statutory probate court, or a justice court shall deposit the court costs and fees collected under this section in the appropriate local treasury and remit the court costs and fees to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.

(h) The clerk of the supreme court or of a court of appeals shall remit the fees collected under this section to the comptroller.

(i) The comptroller shall deposit the court costs and fees received under this section to the credit of the statewide electronic filing system fund established under Section 51.852.

(j) The comptroller may audit the records of a county related to costs and fees collected under this section.

(k) Money spent from costs and fees collected under this section is subject to audit by the state auditor.

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for courts in this state:

- (2) provide grants to counties to implement components of the project; or
- (3) support court technology projects that have a statewide impact as determined by the office of court administration.

SECTION 3. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.031 to read as follows:

Sec. 72.031. ELECTRONIC FILING SYSTEM. (a) In this section:

- (1) "Appellate court" means the supreme court, the court of criminal appeals, or a court of appeals.
- (2) "Electronic filing system" means the filing system established by supreme court rule or order for the electronic filing of documents in courts of this state.
- (3) "Electronic filing transaction" means the simultaneous electronic filing of one or more documents related to a proceeding before a court in this state.
- (4) "Local government" means a county or municipality.
- (b) The office as authorized by supreme court rule or order may implement an electronic filing system for use in the courts of this state.
- (c) A local government or appellate court that uses the electronic filing system may charge a fee of \$2 for each electronic filing transaction if:
 - (1) the fee is necessary to recover the actual system operating costs reasonably incurred by the local government or appellate court to:
 - (A) accept electronic payment methods; or
 - (B) interface with other technology information systems;
 - (2) the fee does not include an amount to recover local

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- (2) "Electronic filing system" means the filing system established by supreme court rule or order for the electronic filing of documents in courts of this state.
- (3) "Electronic filing transaction" means the simultaneous electronic filing of one or more documents related to a proceeding before a court in this state.
- (4) "Local government" means a county or municipality.
- (b) The office as authorized by supreme court rule or order may implement an electronic filing system for use in the courts of this state.
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government or appellate court employee costs, other than costs for directly maintaining the system;

(3) the governing body of the local government or the appellate court approves the fee using the local government or appellate court's standard approval process for fee increases; and

(4) the local government or appellate court annually certifies to the office on a form prescribed by the office that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government or appellate court.

(c-1) This subsection and Subsection (c) expire September 1, 2019.

(d) A local government or appellate court that uses the electronic filing system may accept electronic payment methods, including payments made with credit and debit cards.

(e) A governmental entity not otherwise required to pay a filing fee under any other law may not be required to pay a fee established under this section.

(f) A court shall waive payment of any fee due under this section for an individual the court determines is indigent.

(g) The comptroller may audit the records of a county or municipality relating to fees collected under this section. Money spent from fees collected under this section is subject to audit by the state auditor.

SECTION 4. Subchapter B, Chapter 101, Government Code, is amended by adding Section 101.0211 to read as follows:
Sec. 101.0211. ADDITIONAL SUPREME COURT FEES: GOVERNMENT CODE. The clerk of the supreme court

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government or appellate court employee costs, other than costs for directly maintaining the system;

(3) the governing body of the local government or the appellate court approves the fee using the local government or appellate court's standard approval process for fee increases; and

(4) the local government or appellate court annually certifies to the office on a form prescribed by the office that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government or appellate court.

(c-1) This subsection and Subsection (c) expire September 1, 2019.

(d) A local government or appellate court that uses the electronic filing system may accept electronic payment methods, including payments made with credit and debit cards.

(e) A governmental entity not otherwise required to pay a filing fee under any other law may not be required to pay a fee established under this section.

(f) A court shall waive payment of any fee due under this section for an individual the court determines is indigent.

SECTION 4. Same as House version.

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shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 5. Subchapter C, Chapter 101, Government Code, is amended by adding Section 101.0411 to read as follows:
Sec. 101.0411. ADDITIONAL COURT OF APPEALS FEES: GOVERNMENT CODE. The clerk of a court of appeals shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 5. Same as House version.

SECTION 6. Subchapter D, Chapter 101, Government Code, is amended by adding Section 101.06118 to read as follows:
Sec. 101.06118. ADDITIONAL DISTRICT COURT FEES: GOVERNMENT CODE. The clerk of a district court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 6. Same as House version.

SECTION 7. Subchapter E, Chapter 101, Government Code, is amended by adding Section 101.08117 to read as follows:
Sec. 101.08117. ADDITIONAL STATUTORY COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a statutory county court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 7. Same as House version.

SECTION 8. Subchapter F, Chapter 101, Government Code, is amended by adding Section 101.10116 to read as follows:
Sec. 101.10116. ADDITIONAL STATUTORY PROBATE

SECTION 8. Same as House version.

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COURT FEES: GOVERNMENT CODE. The clerk of a statutory probate court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 9. Subchapter G, Chapter 101, Government Code, is amended by adding Section 101.12126 to read as follows:
Sec. 101.12126. ADDITIONAL COUNTY COURT FEES: GOVERNMENT CODE. The clerk of a county court shall collect a statewide electronic filing system fund fee of \$20 under Section 51.851, Government Code.

SECTION 9. Same as House version.

SECTION 10. Subchapter H, Chapter 101, Government Code, is amended by adding Section 101.1411 to read as follows:
Sec. 101.1411. ADDITIONAL JUSTICE COURT FEES: GOVERNMENT CODE. The clerk of a justice court shall collect a statewide electronic filing system fund fee of \$10 under Section 51.851, Government Code.

SECTION 10. Same as House version.

SECTION 11. Subchapter C, Chapter 102, Government Code, is amended by adding Section 102.0415 to read as follows:
Sec. 102.0415. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: GOVERNMENT CODE. The clerk of a district court shall collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

SECTION 11. Same as House version.

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SECTION 12. Subchapter D, Chapter 102, Government Code, is amended by adding Section 102.0615 to read as follows:

Sec. 102.0615. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: GOVERNMENT CODE. The clerk of a statutory county court shall collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

SECTION 13. Subchapter E, Chapter 102, Government Code, is amended by adding Section 102.082 to read as follows:

Sec. 102.082. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: GOVERNMENT CODE. The clerk of a county court shall collect from a defendant a court cost on conviction of \$5 under Section 51.851, Government Code.

No equivalent provision.

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SECTION 12. Same as House version.

SECTION 13. Same as House version.

SECTION 14. Section 103.027, Government Code, is amended to read as follows:

Sec. 103.027. MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. (a) Fees and costs shall be paid or collected under the Government Code as follows:

- (1) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . \$15;
- (2) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the assistant prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . \$15, provided

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the cost does not exceed \$30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(3) to participate in a court proceeding in this state, a nonresident attorney fee (Sec. 82.0361, Government Code) . . . \$250 except as waived or reduced under supreme court rules for representing an indigent person;

(4) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code) . . . as assessed by the court, all or part of the cost of preparation;

(5) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge; and

(6) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost.

(b) Any fee of \$2 charged by a local government or appellate court for an electronic filing transaction as authorized under Section 72.031(c), Government Code, shall be collected. This subsection expires September 1, 2019.

SECTION 14. Section 231.202, Family Code, is amended to read as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. In a Title IV-D case filed under this title, including a case filed under Chapter 159, the Title IV-D agency shall pay only the following costs and fees:

(1) filing fees and fees for issuance and service of process as

SECTION 15. Section 231.202, Family Code, is amended to read as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. In a Title IV-D case filed under this title, including a case filed under Chapter 159, the Title IV-D agency shall pay only the following costs and fees:

(1) filing fees and fees for issuance and service of process as

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provided by Chapter 110 of this code and by Sections 51.317(b)(1), (2), and (3) and (b-1), 51.318(b)(2), and 51.319(2), Government Code;

(2) fees for transfer as provided by Chapter 110;

(3) fees for the issuance and delivery of orders and writs of income withholding in the amounts provided by Chapter 110;

(4) the fee for services provided by sheriffs and constables, including:

(A) a fee authorized under Section 118.131, Local Government Code, for serving each item of process to each individual on whom service is required, including service by certified or registered mail; and

(B) a fee authorized under Section 157.103(b) for serving a *capias*;

(5) the fee for filing an administrative writ of withholding under Section 158.503(d);

(6) the fee for issuance of a subpoena as provided by Section 51.318(b)(1), Government Code; and

(7) a fee authorized [~~under a local rule~~] for the electronic filing of documents with a clerk.

No equivalent provision.

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provided by Chapter 110 of this code and by Sections 51.317(b)(1), (2), and (3) and (b-1), 51.318(b)(2), and 51.319(2), Government Code;

(2) fees for transfer as provided by Chapter 110;

(3) fees for the issuance and delivery of orders and writs of income withholding in the amounts provided by Chapter 110;

(4) the fee for services provided by sheriffs and constables, including:

(A) a fee authorized under Section 118.131, Local Government Code, for serving each item of process to each individual on whom service is required, including service by certified or registered mail; and

(B) a fee authorized under Section 157.103(b) for serving a *capias*;

(5) the fee for filing an administrative writ of withholding under Section 158.503(d);

(6) the fee for issuance of a subpoena as provided by Section 51.318(b)(1), Government Code; and

(7) a fee authorized **by Section 72.031, Government Code,** [~~under a local rule~~] for the electronic filing of documents with a clerk.

SECTION 16. Section 231.204, Family Code, is amended to read as follows:

Sec. 231.204. PROHIBITED FEES IN TITLE IV-D CASES. Except as provided by this subchapter, an appellate court, a clerk of an appellate court, a district or county clerk, sheriff, constable, or other government officer or employee may not charge the Title IV-D agency or a private attorney or political subdivision that has entered into a contract to provide Title IV-D services any fees or other amounts otherwise imposed

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by law for services rendered in, or in connection with, a Title IV-D case, including:

- (1) a fee payable to a district clerk for:
 - (A) performing services related to the estates of deceased persons or minors;
 - (B) certifying copies; or
 - (C) comparing copies to originals;
- (2) a court reporter fee, except as provided by Section 231.209;
- (3) a judicial fund fee;
- (4) a fee for a child support registry, enforcement office, or domestic relations office;
- (5) a fee for alternative dispute resolution services; ~~and~~
- (6) a filing fee or other costs payable to a clerk of an appellate court; and
- (7) a statewide electronic filing system fund fee.

SECTION 15. Section 133.058(d), Local Government Code, is amended to read as follows:

(d) A county may not retain a service fee on the collection of a fee:

- (1) for the judicial fund; ~~[or]~~
- (2) under Sections 14 and 19, Article 42.12, Code of Criminal Procedure; or
- (3) under Section 51.851, Government Code.

SECTION 17. Same as House version.

SECTION 16. The imposition of a cost of court on conviction under Section 51.851, Government Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the

SECTION 18. Same as House version.

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

No equivalent provision.

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SECTION 19. Section 33.48(a), Tax Code, is amended to read as follows:

(a) In addition to other costs authorized by law, a taxing unit is entitled to recover the following costs and expenses in a suit to collect a delinquent tax:

- (1) all usual court costs, including the cost of serving process and electronic filing fees;
- (2) costs of filing for record a notice of lis pendens against property;
- (3) expenses of foreclosure sale;
- (4) reasonable expenses that are incurred by the taxing unit in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due;
- (5) attorney's fees in the amount of 15 percent of the total amount of taxes, penalties, and interest due the unit; and
- (6) reasonable attorney ad litem fees approved by the court that are incurred in a suit in which the court orders the appointment of an attorney to represent the interests of a defendant served with process by means of citation by publication or posting.

No equivalent provision.

SECTION 20. Section 33.49(a), Tax Code, is amended to read as follows:

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(a) Except as provided by Subsection (b), a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process and electronic filing fees, an attorney ad litem, arbitration, or mediation, and may not be required to post security for costs.

SECTION 17. (a) Section 51.607, Government Code, does not apply to the imposition of a fee assessed under:

- (1) Section 51.851, Government Code, as added by this Act;
- (2) Section 101.0211, Government Code, as added by this Act;
- (3) Section 101.0411, Government Code, as added by this Act;
- (4) Section 101.06118, Government Code, as added by this Act;
- (5) Section 101.08117, Government Code, as added by this Act;
- (6) Section 101.10116, Government Code, as added by this Act;
- (7) Section 101.12126, Government Code, as added by this Act;
- (8) Section 101.1411, Government Code, as added by this Act;
- (9) Section 102.0415, Government Code, as added by this Act;
- (10) Section 102.0615, Government Code, as added by this Act; or
- (11) Section 102.082, Government Code, as added by this Act.

(b) The changes in law made by this Act apply only to a fee that becomes payable on or after September 1, 2013. A fee

SECTION 21. Same as House version.

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that becomes payable before that date is governed by the law in effect when the fee became payable, and the former law is continued in effect for that purpose.

SECTION 18. Not later than December 1, 2018, the Office of Court Administration of the Texas Judicial System shall file a report with the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary detailing the number of local governments and appellate courts collecting a fee under Section 72.031(c), Government Code, as added by this Act, and the necessity of the local governments and appellate courts to continue collecting the fee.

SECTION 19. This Act takes effect September 1, 2013.

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SECTION 22. Same as House version.

SECTION 23. Same as House version.

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