

BILL ANALYSIS

C.S.H.B. 3388
By: Faircloth
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent reports indicate that the costs for the commitment and release of a defendant held in a county jail will increase significantly, and informed observers suggest this increase needs to be mitigated. C.S.H.B. 3388 seeks to address this issue by revising provisions relating to fees for services of peace officers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3388 amends the Code of Criminal Procedure and Government Code to increase from \$5 to \$25 the amount a defendant convicted of a felony or a misdemeanor must pay for services performed in the case by a peace officer for commitment or release.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3388 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 102.011(a), Code of Criminal Procedure, is amended to read as follows:

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

(1) \$5 for issuing a written notice to appear

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 102.011(a), Code of Criminal Procedure, is amended to read as follows:

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

(1) \$5 for issuing a written notice to appear

in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$50 for executing or processing an issued arrest warrant, *capias*, or *capias pro fine* with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or *capias*, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or *capias*, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or *capias*, if:

(i) the arrest warrant or *capias* was not executed; or

(ii) the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

(3) \$5 for summoning a witness;

(4) \$35 for serving a writ not otherwise listed in this article;

(5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) ~~\$90~~ [\$5] for commitment or release;

(7) \$5 for summoning a jury, if a jury is summoned; and

(8) \$8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

SECTION 2. Section 102.021, Government Code, is 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;

(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;

in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$50 for executing or processing an issued arrest warrant, *capias*, or *capias pro fine* with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or *capias*, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or *capias*, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or *capias*, if:

(i) the arrest warrant or *capias* was not executed; or

(ii) the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

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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, 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) . . . ~~\$90~~ [\$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 \$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

(B) executing or processing an issued arrest warrant, 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;

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(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;

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(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 Procedure) . . . \$100;

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

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

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

(16) 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;

(17) 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

(18) 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 122, 123, 124, or 125, Government Code, or former law (Art. 102.0178, Code of Criminal Procedure) . . . \$60.

SECTION 3. The change in law made by this Act applies only to a fee imposed for the commitment or release of a defendant convicted of an offense committed on or after the effective date of this Act. A fee imposed for the commitment or release of a defendant convicted of an offense committed before the effective date of this Act is governed by the law in effect on the date 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 occurred before that date.

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SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect
September 1, 2015.

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