

## **BILL ANALYSIS**

C.S.H.B. 1997  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties express concerns that the duties of certain county pretrial services offices have been expanded without any mechanism for covering costs associated with performing those duties. C.S.H.B. 1997 seeks to remedy this issue by authorizing a county pretrial services office to collect a supervision fee from a defendant participating in a pretrial diversion program operated by that office.

### **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. 1997 amends the Code of Criminal Procedure to authorize a county pretrial services office to collect a supervision fee in an amount not to exceed \$60 each month from a defendant participating in a pretrial diversion program operated by that office. The bill authorizes such an office to require a defendant who the office determines is indigent to pay a fee of less than \$60 only in an amount the office determines would not cause undue hardship for the defendant. The bill authorizes requiring the defendant to pay the fee as a condition of participating in the program. The bill requires the custodian of the county treasury to deposit money received from such supervision fees in a special fund of the county treasury for the county pretrial services office serving the county to be used only for the pretrial diversion program operated by that office.

C.S.H.B. 1997 amends the Government Code to make a conforming change.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1997 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. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0111 to read as follows:

Art. 102.0111. FEES FOR PRETRIAL INTERVENTION PROGRAMS: COUNTY PRETRIAL SERVICES OFFICE. A county pretrial services office may collect a supervision fee in an amount not to exceed \$60 per month from a defendant participating in a pretrial intervention program operated by that office. The defendant may be required to pay the fee under this subsection as a condition of participating in the program.

SECTION 2. The heading to Article 102.012, Code of Criminal Procedure, is amended to read as follows:

Art. 102.012. FEES FOR PRETRIAL INTERVENTION PROGRAMS: COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT.

SECTION 3. Article 103.004, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) The custodian of the county treasury shall deposit money received from fees imposed under Article 102.0111 in a special fund of the county treasury for the county pretrial services office serving the county.

SECTION 4. Section 103.021, Government Code, is amended to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of \$20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a

## HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0111 to read as follows:

Art. 102.0111. FEES FOR PRETRIAL DIVERSION PROGRAMS. A county pretrial services office may collect a supervision fee in an amount not to exceed \$60 each month from a defendant participating in a pretrial diversion program operated by that office. If the office determines that the defendant is indigent, the office may require the defendant to pay a fee of less than \$60 only in an amount the office determines would not cause undue hardship for the defendant. The defendant may be required to pay the fee under this article as a condition of participating in the program.

No equivalent provision.

SECTION 2. Article 103.004, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) The custodian of the county treasury shall deposit in a special fund of the county treasury for the county pretrial services office serving the county money received from fees imposed under Article 102.0111, to be used only for the pretrial diversion program operated by that office.

No equivalent provision. (*But see SECTION 3 below.*)

condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) . . . actual cost;

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed \$10;

(3-a) costs associated with operating a global positioning monitoring system as a condition of release on bond (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs, subject to a determination of indigency;

(3-b) costs associated with providing a defendant's victim with an electronic receptor device as a condition of the defendant's release on bond (Art. 17.49(b)(3), Code of Criminal Procedure) . . . actual costs, subject to a determination of indigency;

(4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) . . . amount ordered;

(5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Chapter 42A, Code of Criminal Procedure) . . . not to exceed \$50 for a misdemeanor offense or \$100 for a felony offense;

(6) payment to a crime stoppers organization as condition of community supervision (Chapter 42A, Code of Criminal Procedure) . . . not to exceed \$50;

(7) children's advocacy center fee (Chapter 42A, Code of Criminal Procedure) . . . not to exceed \$50;

(8) family violence center fee (Chapter 42A, Code of Criminal Procedure) . . . \$100;

(9) community supervision fee (Chapter 42A, Code of Criminal Procedure) . . . not less than \$25 or more than \$60 per month;

(10) additional community supervision fee for certain offenses (Chapter 42A, Code of Criminal Procedure) . . . \$5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Chapter 42A, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a

justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

(15) an additional fee:

(A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal to the sum of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal fee;

(B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed \$10; or

(C) for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise \$10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2, plus postage;

(20-a) a fee to defray the cost of notifying

state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . \$30 per application;

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed \$10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$10;

(B) if the face amount of the check or sight order is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$15;

(C) if the face amount of the check or sight order is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$30;

(D) if the face amount of the check or sight order is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$50; and

(E) if the face amount of the check or sight order is greater than \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$75;

(22) fees for a pretrial intervention program:

(A) a supervision fee:

(i) if the program is operated by a county pretrial services office (Art. 102.0111, Code of Criminal Procedure). . . not to exceed \$60 a month; or

(ii) if the program is operated by a community supervision and corrections department (Art. 102.012 [102.012(a)], Code of Criminal Procedure) . . . \$60 a month plus expenses; and

(B) a district attorney, criminal district attorney, or county attorney administrative fee (Art. 102.0121, Code of Criminal Procedure) . . . not to exceed \$500;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed \$5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed \$2 for each transaction;

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for

certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due; and

(26) a cost on conviction for the truancy prevention and diversion fund (Art. 102.015, Code of Criminal Procedure) . . . \$2.

No equivalent provision. (*But see SECTION 4 above.*)

SECTION 5. The change in law made by this Act applies only to a defendant who participates in a pretrial **intervention** program that begins on or after the effective date of this Act. A defendant who participates in a pretrial **intervention** program that begins before the effective date of this Act is governed by the law in effect when the program began, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2017.

SECTION 3. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.02101 to read as follows:

Sec. 103.02101. ADDITIONAL FEE FOR PRETRIAL DIVERSION PROGRAM: CODE OF CRIMINAL PROCEDURE. A defendant participating in a pretrial diversion program operated by a county pretrial services office shall, if required by the office, pay a supervision fee under Article 102.0111, Code of Criminal Procedure, in an amount not to exceed \$60 each month.

SECTION 4. The change in law made by this Act applies only to a defendant who participates in a pretrial **diversion** program that begins on or after the effective date of this Act. A defendant who participates in a pretrial **diversion** program that begins before the effective date of this Act is governed by the law in effect when the program began, and the former law is continued in effect for that purpose.

SECTION 5. Same as introduced version.