

By: Moody

H.B. No. 597

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a graffiti pretrial diversion program;  
authorizing a fee.

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

SECTION 1. Chapter 32, Code of Criminal Procedure, is amended by adding Article 32.03 to read as follows:

Art. 32.03. DISMISSAL OF CERTAIN GRAFFITI CHARGES ON COMPLETION OF PRETRIAL DIVERSION PROGRAM. (a) Any time before trial commences, on the joint motion of a defendant charged with an offense punishable under Sections 28.08(b)(1)-(4) or (d), Penal Code, and the attorney representing the state, a court may defer proceedings pending the defendant's completion of a pretrial diversion program in which the defendant must:

(1) perform community service that:

(A) must, to the extent possible, include graffiti removal; and

(B) may include outreach education focused on graffiti prevention and eradication, youth mentoring in art-based programs, mural painting, or another form of community service; and

(2) make restitution to the owner of the property on which the defendant made markings, by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the

1 property, personally restoring the property by removing or painting  
2 over any markings the defendant made.

3 (b) The community service described by Subsection (a)(1)  
4 must consist of:

5 (1) at least 25 hours and not more than 100 hours if  
6 the offense is punishable under Section 28.08(b)(1), Penal Code;

7 (2) at least 50 hours and not more than 200 hours if  
8 the offense is punishable under Section 28.08(b)(2), Penal Code;

9 (3) at least 75 hours and not more than 300 hours if  
10 the offense is punishable under Section 28.08(b)(3), Penal Code;  
11 and

12 (4) at least 100 hours and not more than 400 hours if  
13 the offense is punishable under Section 28.08(b)(4) or (d), Penal  
14 Code.

15 (c) A court that defers proceedings under Subsection (a)  
16 shall set a reasonable date by which the defendant must complete the  
17 program described in that subsection, which may be extended in the  
18 court's discretion not later than one year after the date the  
19 proceedings were deferred.

20 (d) A court shall dismiss the case if satisfactory evidence  
21 is presented that the defendant successfully completed a program  
22 under Subsection (a) by the date specified under Subsection (c).

23 SECTION 2. Article 102.012(b), Code of Criminal Procedure,  
24 is amended to read as follows:

25 (b) In addition to or in lieu of the supervision fee  
26 authorized by Subsection (a), the court may order the defendant to  
27 pay or reimburse a community supervision and corrections department

1 for any other expense that is:

2 (1) incurred as a result of the defendant's  
3 participation in the pretrial intervention program, other than an  
4 expense described by Article 102.0121 or 102.0122; or

5 (2) necessary to the defendant's successful completion  
6 of the program.

7 SECTION 3. Subchapter A, Chapter 102, Code of Criminal  
8 Procedure, is amended by adding Article 102.0122 to read as  
9 follows:

10 Art. 102.0122. FEES FOR CERTAIN EXPENSES RELATED TO  
11 GRAFFITI PRETRIAL DIVERSION PROGRAM. (a) A district attorney,  
12 criminal district attorney, or county attorney may collect from any  
13 defendant referred to a graffiti pretrial diversion program under  
14 Article 32.03 fees in the following amounts:

15 (1) an amount not to exceed \$500 to be used to  
16 reimburse a county for expenses, including expenses of the district  
17 attorney's, criminal district attorney's, or county attorney's  
18 office, related to the defendant's participation in a graffiti  
19 pretrial diversion program offered in that county; and

20 (2) the amount of \$50 to be used for the prevention of  
21 juvenile delinquency and for graffiti eradication.

22 (b) Fees collected under Subsection (a)(1) shall be  
23 deposited in the county treasury to the credit of a special fund to  
24 be used solely to administer the graffiti pretrial diversion  
25 program.

26 (c) Fees collected under Subsection (a)(2) shall be  
27 deposited in the county treasury to the credit of the county

1 juvenile delinquency prevention fund under Article 102.0171.

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

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

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

12 (2) cost of electronic monitoring as a condition of  
13 release on personal bond (Art. 17.43, Code of Criminal Procedure) .  
14 . . actual cost;

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

18 (3-a) costs associated with operating a global  
19 positioning monitoring system as a condition of release on bond  
20 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,  
21 subject to a determination of indigency;

22 (3-b) costs associated with providing a defendant's  
23 victim with an electronic receptor device as a condition of the  
24 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal  
25 Procedure) . . . actual costs, subject to a determination of  
26 indigency;

27 (4) repayment of reward paid by a crime stoppers

1 organization on conviction of a felony (Art. 37.073, Code of  
2 Criminal Procedure) . . . amount ordered;

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

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

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

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

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

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

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

26 (12) fee for failure to appear for trial in a justice  
27 or municipal court if a jury trial is not waived (Art. 45.026, Code

1 of Criminal Procedure) . . . costs incurred for impaneling the jury;

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

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

8 (15) an additional fee:

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

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

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

24 (16) a request fee for teen court program (Art.  
25 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering  
26 the fee is located in the Texas-Louisiana border region, but  
27 otherwise not to exceed \$10;

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

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

8           (19) certified mailing of notice of hearing date (Art.  
9 [102.006](#), Code of Criminal Procedure) . . . \$1, plus postage;

10           (20) certified mailing of certified copies of an order  
11 of expunction (Art. [102.006](#), Code of Criminal Procedure) . . . \$2,  
12 plus postage;

13           (20-a) a fee to defray the cost of notifying state  
14 agencies of orders of expungement (Art. [45.0216](#), Code of Criminal  
15 Procedure) . . . \$30 per application;

16           (21) sight orders:

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

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

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

26                   (D) if the face amount of the check or sight order  
27 is greater than \$300 but does not exceed \$500 (Art. [102.007](#), Code of

1 Criminal Procedure) . . . not to exceed \$50; and

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

5 (22) fees for [~~a~~] pretrial intervention or diversion  
6 programs [~~program~~]:

7 (A) a supervision fee (Art. 102.012(a), Code of  
8 Criminal Procedure) . . . \$60 a month plus expenses; [~~and~~]

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

12 (C) a district attorney, criminal district  
13 attorney, or county attorney administrative fee (Art.  
14 102.0122(a)(1), Code of Criminal Procedure) . . . not to exceed  
15 \$500; and

16 (D) a fee payable to the county juvenile  
17 delinquency prevention fund (Art. 102.0122(a)(2), Code of Criminal  
18 Procedure) . . . \$50;

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

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

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

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



1           (25) a collection fee, if authorized by the  
2 commissioners court of a county or the governing body of a  
3 municipality, for certain debts and accounts receivable, including  
4 unpaid fines, fees, court costs, forfeited bonds, and restitution  
5 ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30  
6 percent of an amount more than 60 days past due; and

7           (26) a cost on conviction for the truancy prevention  
8 and diversion fund (Art. 102.015, Code of Criminal Procedure) . . .  
9 \$2.

10           SECTION 5. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect on the date the offense was committed,  
14 and the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense occurred  
17 before that date.

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