

By: White

H.B. No. 3519

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the ability of a child, parent, or other person
3 responsible for a child's support to pay juvenile probation fees or
4 court costs and fees imposed by a juvenile court.

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

6 SECTION 1. Section 53.03(d), Family Code, is amended to
7 read as follows:

8 (d) The juvenile board may adopt a fee schedule for deferred
9 prosecution services [~~and rules for the waiver of a fee for~~
10 ~~financial hardship~~] in accordance with guidelines that the Texas
11 Juvenile Justice Department shall provide. The maximum fee is \$15
12 a month. If the board adopts a schedule, subject to Section 53.031
13 [~~and rules for waiver~~], the probation officer or other designated
14 officer of the court shall collect the fee authorized by the
15 schedule from the parent, guardian, or custodian of a child for whom
16 a deferred prosecution is authorized under this section or waive
17 the fee in accordance with Section 53.031 [~~the rules adopted by the~~
18 ~~board~~]. The officer shall deposit the fees received under this
19 section in the county treasury to the credit of a special fund that
20 may be used only for juvenile probation or community-based juvenile
21 corrections services or facilities in which a juvenile may be
22 required to live while under court supervision. If the board does
23 not adopt a schedule [~~and rules for waiver~~], a fee for deferred
24 prosecution services may not be imposed.

1 SECTION 2. Chapter 53, Family Code, is amended by adding
2 Section 53.031 to read as follows:

3 Sec. 53.031. DEFERRED PROSECUTION SERVICES FEE. (a)
4 Before a probation officer or other designated officer of the court
5 may collect a deferred prosecution services fee from a parent or
6 other person responsible for the child's support under Section
7 53.03(d), the officer shall conduct an assessment to determine
8 whether the payment of the fee, in whole or in part, would cause
9 undue hardship.

10 (b) The probation officer or other designated officer of the
11 court shall make a finding that the payment of a fee would cause
12 undue hardship and waive the fee under Section 53.03(d) if the court
13 finds that:

14 (1) the parent, other person, or family of the parent
15 or other person earns not more than 125 percent of the income
16 standards established by applicable federal poverty guidelines; or

17 (2) the parent, other person, or family of the parent
18 or other person currently receives assistance or benefits under:

19 (A) the child health plan program under Chapter
20 62, Health and Safety Code;

21 (B) the financial assistance program under
22 Chapter 31, Human Resources Code;

23 (C) the medical assistance program under Chapter
24 32, Human Resources Code;

25 (D) the supplemental nutrition assistance
26 program under Chapter 33, Human Resources Code;

27 (E) the Temporary Assistance for Needy Families

1 program; or

2 (F) the federal special supplemental nutrition
3 program for women, infants, and children authorized by 42 U.S.C.
4 Section 1786.

5 (c) In determining whether the fee would cause undue
6 hardship for a parent or other person whose payment is not waived
7 under Subsection (b), the officer shall consider whether the person
8 could reasonably pay the required obligation after the person
9 discharged the person's other important financial obligations,
10 including payments for housing, food, utilities, necessary
11 clothing, education, and preexisting debts.

12 (d) If the probation officer or other designated officer of
13 the court determines under Subsection (c) that the parent or other
14 person is unable to pay the fee in whole or in part without
15 experiencing undue hardship, the officer shall waive the fee or
16 collect a reduced fee in an amount that the officer determines will
17 not cause an undue hardship.

18 SECTION 3. Chapter 54, Family Code, is amended by adding
19 Section 54.021 to read as follows:

20 Sec. 54.021. COURT-ORDERED FEE, COST, OR RESTITUTION
21 PAYMENT. (a) Before a court may impose a fee, cost, or a
22 restitution payment on a child, parent, or other person responsible
23 for the child's support, the court shall conduct an assessment to
24 determine whether the fee, cost, or restitution payment would cause
25 undue hardship.

26 (b) The court shall make a finding that the child, parent,
27 or other person is unable to pay a fee, cost, or restitution payment

1 without experiencing undue hardship and waive the fee, cost, or
2 payment if:

3 (1) the child, parent, or other person or family of the
4 child, parent, or other person earns not more than 125 percent of
5 the income standards established by applicable federal poverty
6 guidelines; or

7 (2) the child, parent, or other person or family of the
8 child, parent, or other person currently receives assistance or
9 benefits under:

10 (A) the child health plan program under Chapter
11 62, Health and Safety Code;

12 (B) the financial assistance program under
13 Chapter 31, Human Resources Code;

14 (C) the medical assistance program under Chapter
15 32, Human Resources Code;

16 (D) the supplemental nutrition assistance
17 program under Chapter 33, Human Resources Code;

18 (E) the Temporary Assistance for Needy Families
19 program; or

20 (F) the federal special supplemental nutrition
21 program for women, infants, and children authorized by 42 U.S.C.
22 Section 1786.

23 (c) In determining whether a fee, cost, or restitution
24 payment would cause undue hardship for a child, parent, or other
25 person whose payment is not waived under Subsection (b), the court
26 shall consider whether the person could reasonably pay the
27 court-ordered obligation after the person discharged the person's

1 other important financial obligations, including payments for
2 housing, food, utilities, necessary clothing, education, and
3 preexisting debts.

4 (d) A court that makes a finding under Subsection (c) that
5 the child, parent, or other person is unable to pay the fee, cost,
6 or restitution payment in whole or in part without experiencing
7 undue hardship shall waive the fee or order the child, parent, or
8 other person to pay a reduced fee, cost, or restitution payment in
9 an amount that the court finds would not cause an undue hardship.

10 (e) The inability of the child, parent, or other person
11 responsible for the child's support to pay any fee, cost, or
12 restitution payment related to the child's case may not result in:

13 (1) the child being denied access to a more favorable
14 disposition of the child's case, programming, or treatment;

15 (2) the child's probation or supervision being
16 extended; or

17 (3) additional punishment for the child.

18 SECTION 4. Section 54.032, Family Code, is amended by
19 adding Subsection (i) to read as follows:

20 (i) The court shall waive or reduce a fee under Subsection
21 (e), (g), or (h) if the court makes a finding under Section 54.021
22 that the child is unable to pay the fee in whole or in part without
23 experiencing undue hardship.

24 SECTION 5. Section 54.0325, Family Code, is amended by
25 adding Subsection (j) to read as follows:

26 (j) The court shall waive or reduce a fee under Subsection
27 (g) or (h) if the court makes a finding under Section 54.021 that

1 the child is unable to pay the fee in whole or in part without
2 experiencing undue hardship.

3 SECTION 6. Section 54.0404(b), Family Code, is amended to
4 read as follows:

5 (b) A juvenile court that enters an order under Subsection
6 (a) shall require the child or the child's parent or other person
7 responsible for the child's support to pay the cost of attending an
8 educational program under Subsection (a) if the court determines
9 that the child, parent, or other person is financially able to make
10 payment. The court shall waive or reduce the cost of attending the
11 program if the court makes a finding under Section 54.021 that the
12 child, parent, or other person is unable to pay the cost in whole or
13 in part without experiencing undue hardship.

14 SECTION 7. Section 54.041, Family Code, is amended by
15 adding Subsections (a-1) and (c-1) to read as follows:

16 (a-1) The court shall waive or reduce the cost of attending
17 treatment programs under Subsection (a)(4) if the court makes a
18 finding under Section 54.021 that the parent or other person is
19 unable to pay the cost in whole or in part without experiencing
20 undue hardship.

21 (c-1) If a juvenile court orders a child to make restitution
22 under Subsection (b) and makes a finding under Section 54.021 that
23 the child, child's parent, or other person responsible for the
24 child's support is financially unable to make the restitution
25 without experiencing undue hardship, the court may order the child
26 to perform a specific number of hours of community service to
27 satisfy all or part of the restitution.

1 SECTION 8. Section 54.0411, Family Code, is amended by
2 adding Subsection (a-1) to read as follows:

3 (a-1) The court shall waive or reduce the fee under
4 Subsection (a) if the court makes a finding under Section 54.021
5 that the child, parent, or other person is unable to pay the fee in
6 whole or in part without experiencing undue hardship.

7 SECTION 9. Section 54.046(c), Family Code, is amended to
8 read as follows:

9 (c) If a juvenile court orders a child to make restitution
10 under Subsection (a) and makes a finding under Section 54.021 that
11 the child, child's parent, or other person responsible for the
12 child's support is financially unable to make the restitution
13 payment in whole or in part without experiencing undue hardship,
14 the court may order the child to perform a specific number of hours
15 of community service, in addition to the hours required under
16 Subsection (d), to satisfy all or part of the restitution.

17 SECTION 10. Section 54.0461(c), Family Code, is amended to
18 read as follows:

19 (c) The court shall waive or reduce the fee under this
20 section if [If] the court makes a finding under Section 54.021
21 [finds] that a child, parent, or other person responsible for the
22 child's support is unable to pay the juvenile delinquency
23 prevention fee required under Subsection (a) in whole or in part
24 without experiencing undue hardship. The [the] court shall enter
25 into the child's case records a statement of that finding. [The
26 court may waive a fee under this section only if the court makes the
27 finding under this subsection.]

1 SECTION 11. Section 54.0462(c), Family Code, is amended to
2 read as follows:

3 (c) The court shall waive or reduce the fee under Subsection
4 (a) if ~~if~~ the court makes a finding under Section 54.021 ~~[finds]~~
5 that a child, parent, or other person responsible for the child's
6 support is unable to pay the fee required under Subsection (a) in
7 whole or in part without experiencing undue hardship. The ~~[, the]~~
8 court shall enter into the child's case records a statement of that
9 finding. ~~[The court may waive a fee under this section only if the~~
10 ~~court makes the finding under this subsection.]~~

11 SECTION 12. Section 54.047(f), Family Code, is amended to
12 read as follows:

13 (f) If the court orders a child under Subsection (a) or (b)
14 to attend a drug education program or alcohol awareness program,
15 ~~[unless the court determines that the parent or guardian of the~~
16 ~~child is indigent and unable to pay the cost,]~~ the court shall
17 require the child's parent or other person responsible for the
18 child's support ~~[a guardian of the child]~~ to pay the cost of
19 attending the program. The court shall allow the child's parent or
20 other person ~~[guardian]~~ to pay the cost of attending the program in
21 installments. The court shall waive or reduce the cost of attending
22 the program if the court makes a finding under Section 54.021 that
23 the parent or other person is unable to pay the cost in whole or in
24 part without experiencing undue hardship.

25 SECTION 13. Section 54.048, Family Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) If a juvenile court orders a child to make restitution

1 under Subsection (a) and makes a finding under Section 54.021 that
2 the child, child's parent, or other person responsible for the
3 child's support is financially unable to make the restitution in
4 whole or in part without experiencing undue hardship, the court may
5 order the child to perform a specific number of hours of community
6 service to satisfy all or part of the restitution.

7 SECTION 14. Section 54.0481(b), Family Code, is amended to
8 read as follows:

9 (b) If a juvenile court orders a child to make restitution
10 under Subsection (a) and makes a finding under Section 54.021 that
11 the child, child's parent, or other person responsible for the
12 child's support is financially unable to make the restitution
13 without experiencing undue hardship, the court may order the child
14 to perform a specific number of hours of community service to
15 satisfy all or part of the restitution.

16 SECTION 15. Section 54.049(b), Family Code, is amended to
17 read as follows:

18 (b) If a juvenile court orders a child to make restitution
19 under Subsection (a) and the court makes a finding under Section
20 54.021 that the child is [financially] unable to make the
21 restitution in whole or in part without experiencing undue
22 hardship, the court may [order]:

23 (1) order the child to perform a specific number of
24 hours of community service to satisfy all or part of the
25 restitution; ~~[or]~~

26 (2) if the court makes a finding under Section 54.021
27 that a parent or other person responsible for the child's support is

1 able to make the restitution in the amount described by Subsection
2 (a) without experiencing undue hardship, order the parent or other
3 person to make restitution for the full amount; or

4 (3) if the court makes a finding under Section 54.021
5 that the parent or other person is unable to make the restitution in
6 the full amount described by Subsection (a) without experiencing
7 undue hardship but is able to make the restitution in a lesser
8 amount without experiencing undue hardship, order the parent or
9 other person to make restitution in the lesser amount.

10 SECTION 16. Section 54.06, Family Code, is amended by
11 adding Subsection (a-1) to read as follows:

12 (a-1) The court shall waive or reduce the payment for
13 support under Subsection (a) if the court makes a finding under
14 Section 54.021 that the parent or other person is unable to make the
15 payment in whole or in part without experiencing undue hardship.

16 SECTION 17. Section 54.061(d), Family Code, is amended to
17 read as follows:

18 (d) The court shall waive or reduce the fee under Subsection
19 (a) if [~~If~~] the court makes a finding under Section 54.021 [~~finds~~]
20 that a child, parent, or other person responsible for the child's
21 support is financially unable to pay the probation fee required
22 under Subsection (a) in whole or in part without experiencing undue
23 hardship. The [~~the~~] court shall enter into the records of the
24 child's case a statement of that finding. [~~The court may waive a~~
25 fee under this section only if the court makes the finding under
26 this subsection.]

27 SECTION 18. The changes in law made by this Act apply only

1 to a fee, cost, or other payment imposed on or after the effective
2 date of this Act. A fee, cost, or other payment imposed before the
3 effective date of this Act is governed by the law in effect on the
4 date the fee, cost, or payment was imposed, and the former law is
5 continued in effect for that purpose.

6 SECTION 19. Section [51.607](#), Government Code, does not apply
7 to the change in the amount of fees or court costs made by this Act.

8 SECTION 20. This Act takes effect September 1, 2017.