

By: Garcia

S.B. No. 1582

A BILL TO BE ENTITLED

1 AN ACT
2 relating to community supervision in this state and the waiver or
3 modification of certain fees, fines, and costs imposed on certain
4 defendants; changing fees applicable to community supervision or a
5 defendant's participation in certain programs.

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

7 SECTION 1. Article 42A.304, Code of Criminal Procedure, is
8 amended by amending Subsection (c) and adding Subsections (h) and
9 (i) to read as follows:

10 (c) A defendant required or allowed to perform community
11 service under this article is not a state employee for the purposes
12 of Chapter 501 or 504, Labor Code.

13 (h) Each hour that a defendant required to perform community
14 service under this article spends participating in a
15 rehabilitative, educational, or vocational program satisfies one
16 hour of required community service if the judge determines that the
17 defendant's participation in the program tends to mitigate a risk
18 factor identified by a risk and needs assessment of the defendant.

19 (i) If a defendant is unable to pay, as ordered under this
20 chapter, community supervision fees, fines, or court costs or the
21 costs of legal services as described by Article 42A.301(11), the
22 judge shall allow the defendant to discharge, at the rate provided
23 by Article 43.09(k), all or part of the fees, fines, or costs by
24 performing community service.

1 SECTION 2. Article [42A.652](#), Code of Criminal Procedure, is
2 amended by amending Subsection (a) and adding Subsection (a-1) to
3 read as follows:

4 (a) Except as otherwise provided by this article, a judge
5 who grants community supervision to a defendant shall set a fee in
6 the applicable amount according to the schedule adopted under
7 Section 509.018, Government Code, [~~of not less than \$25 and not more~~
8 ~~than \$60]~~ to be paid each month during the period of community
9 supervision by the defendant to:

10 (1) the court of original jurisdiction; or

11 (2) the court accepting jurisdiction of the
12 defendant's case, if jurisdiction is transferred under Article
13 [42A.151](#).

14 (a-1) A judge who grants community supervision or the judge
15 of the court accepting jurisdiction of a defendant's case under
16 Article [42A.151](#) may adjust the fee required to be paid under
17 Subsection (a) as necessary based on changes to any of the factors
18 listed in Section 509.018, Government Code, used in the setting of
19 the initial fee.

20 SECTION 3. Article [42A.751](#), Code of Criminal Procedure, is
21 amended by amending Subsection (i) and adding Subsection (i-1) to
22 read as follows:

23 (i) The court may not revoke a defendant's community
24 supervision or extend a defendant's period of community supervision
25 based solely on the defendant's failure [~~In a revocation hearing at~~
26 ~~which it is alleged only that the defendant violated the conditions~~
27 ~~of community supervision by failing]~~ to pay [~~compensation paid to~~

1 ~~appointed counsel,~~] community supervision fees, fines, or court
2 costs or to pay the costs of legal services as described by Article
3 42A.301(11), unless the court determines that:

4 (1) the defendant was able to pay and did not pay as
5 ordered; or

6 (2) the defendant:

7 (A) is unable to pay; and

8 (B) could have discharged the amount under
9 Article 42A.304(i) without experiencing any undue hardship but
10 failed to make a good faith effort to do so.

11 (i-1) For purposes of Subsection (i)(1), the state must
12 prove by a preponderance of the evidence that the defendant was able
13 to pay and did not pay as ordered by the judge.

14 SECTION 4. Article 43.091, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
17 INDIGENT DEFENDANTS AND FOR CHILDREN. A court shall waive payment
18 of costs and may waive payment of a fine [~~or cost~~] imposed on a
19 defendant [~~who defaults in payment~~] if the court determines that:

20 (1) the defendant is indigent or was, at the time the
21 offense was committed, a child as defined by Article 45.058(h); and

22 (2) each alternative method of discharging the fine or
23 cost under Article 43.09 or 42.15 would impose an undue hardship on
24 the defendant.

25 SECTION 5. Article 102.012(a), Code of Criminal Procedure,
26 is amended to read as follows:

27 (a) A court that authorizes a defendant to participate in a

1 pretrial intervention program established under Section 76.011,
2 Government Code, may order the defendant to pay to the court a
3 monthly supervision fee in the applicable ~~[an]~~ amount according to
4 the schedule adopted under Section 509.018, Government Code, ~~[not~~
5 ~~more than \$60 per month]~~ as a condition of participating in the
6 program.

7 SECTION 6. Section 76.015(c), Government Code, is amended
8 to read as follows:

9 (c) A department may assess a monthly ~~[a reasonable]~~
10 administrative fee in the applicable amount according to the
11 schedule adopted under Section 509.018 ~~[of not less than \$25 and not~~
12 ~~more than \$60 per month]~~ on an individual who participates in a
13 program operated by the department or receives services from the
14 department and who is not paying a monthly fee under Article
15 42A.652, Code of Criminal Procedure.

16 SECTION 7. Section 103.021, Government Code, is amended to
17 read as follows:

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

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

26 (2) cost of electronic monitoring as a condition of
27 release on personal bond (Art. 17.43, Code of Criminal Procedure)

1 . . . actual cost;

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

5 (3-a) costs associated with operating a global
6 positioning monitoring system as a condition of release on bond
7 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,
8 subject to a determination of indigency;

9 (3-b) costs associated with providing a defendant's
10 victim with an electronic receptor device as a condition of the
11 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal
12 Procedure) . . . actual costs, subject to a determination of
13 indigency;

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

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

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

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

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

1 (9) community supervision fee (Chapter 42A, Code of
2 Criminal Procedure) . . . amount ordered [~~not less than \$25 or more~~
3 ~~than \$60 per month~~];

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

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

13 (12) fee for failure to appear for trial in a justice
14 or municipal court if a jury trial is not waived (Art. 45.026, Code
15 of Criminal Procedure) . . . costs incurred for impaneling the
16 jury;

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

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

23 (15) an additional fee:

24 (A) for a copy of the defendant's driving record
25 to be requested from the Department of Public Safety by the judge
26 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal
27 to the sum of the fee established by Section 521.048,

1 Transportation Code, and the state electronic Internet portal fee;

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

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

12 (16) a request fee for teen court program (Art.
13 45.052, Code of Criminal Procedure) . . . \$20, if the court
14 ordering the fee is located in the Texas-Louisiana border region,
15 but otherwise not to exceed \$10;

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

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

23 (19) certified mailing of notice of hearing date (Art.
24 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

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

1 (20-a) a fee to defray the cost of notifying state
2 agencies of orders of expungement (Art. 45.0216, Code of Criminal
3 Procedure) . . . \$30 per application;

4 (21) sight orders:

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

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

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

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

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

20 (22) fees for a pretrial intervention program:

21 (A) a supervision fee (Art. 102.012(a), Code of
22 Criminal Procedure) . . . amount ordered [~~\$60 a month plus~~
23 ~~expenses~~]; and

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

27 (23) parking fee violations for child safety fund in

1 municipalities with populations:

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

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

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

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

15 (26) a cost on conviction for the truancy prevention
16 and diversion fund (Art. 102.015, Code of Criminal Procedure) . . .
17 \$2.

18 SECTION 8. Section 103.0211, Government Code, is amended to
19 read as follows:

20 Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
21 CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party
22 to a civil suit, as applicable, shall pay the following fees and
23 costs under the Government Code if ordered by the court or otherwise
24 required:

25 (1) a court reporter fee when testimony is taken:

26 (A) in a criminal court in Dallas County (Sec.
27 25.0593, Government Code) . . . \$3;

1 (B) in a county criminal court of appeals in
2 Dallas County (Sec. 25.0594, Government Code) . . . \$3;

3 (C) in a county court at law in McLennan County
4 (Sec. 25.1572, Government Code) . . . \$3; and

5 (D) in a county criminal court in Tarrant County
6 (Sec. 25.2223, Government Code) . . . \$3;

7 (2) a court reporter service fee if the courts have
8 official court reporters (Sec. 51.601, Government Code) . . . \$15
9 or, in specified counties, \$30;

10 (3) a speedy trial rights waiver motion filing fee in
11 El Paso County (Sec. 54.745, Government Code) . . . \$100;

12 (4) the costs of a criminal magistrate if the court
13 determines that the nonprevailing party is able to defray the
14 costs:

15 (A) in Bexar County (Sec. 54.913, Government
16 Code) . . . magistrate's fees;

17 (B) in Dallas County (Sec. 54.313, Government
18 Code) . . . magistrate's fees;

19 (C) in Lubbock County (Sec. 54.883, Government
20 Code) . . . magistrate's fees;

21 (D) in Tarrant County (Sec. 54.663, Government
22 Code) . . . magistrate's fees; and

23 (E) in Travis County (Sec. 54.983, Government
24 Code) . . . magistrate's fees;

25 (5) an administrative fee for participation in certain
26 community supervision programs (Sec. 76.015, Government Code)
27 . . . amount ordered [~~not less than \$25 and not more than \$60 per~~

1 ~~month~~]; and

2 (6) fee paid on filing a petition for an order of
3 nondisclosure of criminal history record information in certain
4 cases (Subchapter E-1, Chapter 411, Government Code) . . . \$28.

5 SECTION 9. Chapter 509, Government Code, is amended by
6 adding Section 509.018 to read as follows:

7 Sec. 509.018. SCHEDULE OF FEES RELATED TO SUPERVISION. (a)
8 The division shall adopt a fee schedule applicable to the amount of
9 a fee that is authorized by:

10 (1) Section 76.015(c); or

11 (2) Article 42A.652 or 102.012(a), Code of Criminal
12 Procedure.

13 (b) The fee schedule must establish the monthly fee to be
14 paid by a person under a provision listed in Subsection (a) and must
15 calculate the fee based on the person's:

16 (1) income;

17 (2) family size;

18 (3) regular living expenses; and

19 (4) other relevant factors that vary based on the
20 person.

21 (c) The division shall update the fee schedule as the
22 division considers necessary to reflect changes attributable to
23 inflation and other relevant factors.

24 SECTION 10. Not later than January 1, 2018, the community
25 justice assistance division of the Texas Department of Criminal
26 Justice shall adopt the fee schedule required by Section 509.018,
27 Government Code, as added by this Act.

1 SECTION 11. Article 43.091, Code of Criminal Procedure, as
2 amended by this Act, applies to a criminal proceeding that
3 commences before, on, or after the effective date of this Act.

4 SECTION 12. Articles 42A.304 and 42A.751, Code of Criminal
5 Procedure, as amended by this Act, apply to a person on community
6 supervision on or after the effective date of this Act, regardless
7 of whether the person was placed on community supervision before,
8 on, or after the effective date of this Act.

9 SECTION 13. Articles 42A.652 and 102.012(a), Code of
10 Criminal Procedure, and Section 76.015(c), Government Code, as
11 amended by this Act, apply only to a fee that is due on or after the
12 effective date of this Act.

13 SECTION 14. To the extent of any conflict, this Act prevails
14 over another Act of the 85th Legislature, Regular Session, 2017,
15 relating to nonsubstantive additions to and corrections in enacted
16 codes.

17 SECTION 15. This Act takes effect September 1, 2017.