

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 10, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3729 by White (Relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3729, As Introduced: a negative impact of (\$16,256,000) through the biennium ending August 31, 2019.

In addition, the bill would have a negative, but indeterminate, fiscal impact to the state due to anticipated revenue decreases resulting from an unknown number of defendants that would be indigent or unable to pay receiving a waiver or discharge from fines, fees, and court costs; an unknown number of defendants that would satisfy fines and costs with community service; and an unknown reduction in fee revenue due to limiting the collection of fees for peace officer services to once per arrest rather than once per warrant, *capias*, or *capias pro fine*.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$8,278,000)
2019	(\$7,978,000)
2020	(\$7,678,000)
2021	(\$7,378,000)
2022	(\$7,078,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund
2018	(\$8,278,000)
2019	(\$7,978,000)

2020	(\$7,678,000)
2021	(\$7,378,000)
2022	(\$7,078,000)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure, the Local Government Code, the Government Code, and the Transportation Code relating to the administrative, civil, or criminal consequences imposed on defendants arrested for, charged with, and convicted of offenses punishable by fine only.

The bill would require standard language to be added to a citation for all fine-only offenses notifying the defendant of the steps to take if they are unable to pay, any alternatives to payment, and the possibility of a waiver, and would require a justice or judge provide notice with contents specified in the bill by telephone or certified mail to the defendant before issuing an arrest warrant for the defendant's failure to appear.

The bill would require a court issuing a sentence for a fine-only misdemeanor to determine a defendant's ability to pay a fine or costs before imposing the fine or costs and would provide a court with the authority to require a defendant to perform community service to satisfy the fine and/or costs when imposing the sentence.

The bill would require a justice or judge to inform a defendant at the time of their plea that they may request to perform community service to discharge the fine or costs. The bill would limit the amount of time a person could be held in custody before they are brought before the court in fine-only offenses and would require the court to notify a defendant and to hold a hearing before issuing a *capias pro fine*.

The bill would amend the procedures for committing a defendant to jail for failure to pay a fine or costs if they default in payments for either the fine or costs. The bill would increase the jail credit toward the payment of the fine or costs when a defendant discharges the same by serving time in jail and would limit the amount of time a defendant could be placed in jail for failure to pay to three days.

The bill would authorize a court to allow any defendant to perform community service in satisfaction of a fine or costs, if it does not impose an undue hardship on the defendant, and would permit an indigent defendant to request to perform community service in satisfaction of a fine or costs and require the court to allow this community service at the time of sentencing. The bill would increase the number of places a defendant would be able to perform community service, would change the amount of credit received for performing community service, and would require entities to supervise defendants on-site or from a remote location.

The bill would authorize a court to waive all or part of a fine or costs if the court determines that a defendant has insufficient resources and a waiver is in the interest of justice.

The bill would limit the collection of the \$50 fee for the services of a peace officer to cases where the peace officer actually executed the warrant, *capias*, or *capias pro fine*, and would allow the fee to be assessed only once per arrest rather than once per warrant, *capias*, or *capias pro fine*.

The bill would repeal the \$25 time payment fee that is imposed on defendants convicted of certain offenses if they pay any part of a fine, costs, or restitution more than 30 days after the date on which a judgment entered assessing the fine, costs, or restitution.

The bill would authorize a court or county to waive a \$20 fee for a vehicle owner referred to the County Scofflaw program if the vehicle owner pays or satisfies the fine and fees imposed in the underlying criminal case and would prevent the Department of Motor Vehicles (DMV) from imposing the \$20 fee and refusing to register the vehicle of an owner determined by the judge in the associated criminal case to be indigent or without sufficient resources or income to pay the fine and fee assessed in the criminal case. In addition, the bill would remove limitations on use of the \$20 fee to reimburse a county or DMV for expenses incurred in administering the program.

The bill would permit a person to petition a municipal court for an occupational driver's license. The bill would prohibit the Department of Public Safety (DPS) from imposing a \$30 administrative fee and denying the renewal of a defendant's driver's license if the judge in the underlying criminal case made a finding that the defendant was indigent or without sufficient resources or income to pay the fine and fee assessed in the criminal case.

The bill would prevent a court from refusing to notify DPS or delaying notification of when a person's driver's license should be cleared and reinstated until the person pays the \$30 administrative fee, if the person's underlying criminal case was dismissed, and would prevent DPS from continuing to deny the renewal of a person's driver's license if DPS receives notice that the case in which the person failed to appear was dismissed.

The bill would eliminate requirements for a person that has failed to appear in a criminal court to pay a \$30 fee for each complaint or citation reported to DPS. Instead, the person would pay one fee for all complaints and citations arising out of the same criminal episode, unless the person is acquitted, the charged is dismissed, or the fee is waived by the judge in the underlying case and would grant the judge in such cases the authority to waive the fee even if the person is not indigent.

The bill would require DPS to waive all surcharges imposed on an indigent driver.

The bill would take effect September 1, 2017.

Methodology

According to the Office of Court Administration (OCA), the fiscal impact associated with permitting defendants to satisfy fines and costs with community service may result in a decrease in collections in an amount that cannot be determined because the number of defendants that would choose this option is unknown.

According to the Comptroller of Public Accounts (CPA), the amount of revenue loss that would occur as a result of the waiver or discharge of fines, fees, and court costs by justices or judges from a person that is indigent or unable to pay cannot be determined. According to OCA, no data is available to determine how many people would qualify for the required waiver of court costs.

According to the CPA, the repeal of time payment fees would result in a decrease in revenue to the General Revenue Fund of \$8,278,000 in fiscal year 2018, \$7,978,000 in fiscal year 2019, \$7,678,000 in fiscal year 2020, \$7,378,000 in fiscal year 2021, and \$7,078,000 in fiscal year 2022.

According to the CPA, limitations on collection of the peace officer fee would have a negative, but indeterminate, effect on state revenue collected from this fee.

Based on the analysis of the DPS and the DMV, duties and responsibilities associated with

implementing the provisions of the bill that pertain to these agencies could be accomplished by utilizing existing resources.

Local Government Impact

According to the OCA, the limitation on assessment of warrant fees to executive warrants and only once per arrest will result in an indeterminate decrease in revenue to local governments.

According to the OCA, local governments may see a decrease in revenue from defendants choosing to satisfy fines or costs with community service rather than through payment and from requiring courts to waive costs for individuals meeting certain financial criteria; however, this decrease cannot be determined because it is unknown how many defendants and courts would use these options.

According to the OCA, local governments are anticipated to see a decrease of \$11,423,573 from elimination of the time payment fee. However, these decreases would be offset by decreases in costs associated with warrant processing and jail costs that are anticipated to be significant. Some local governments may see a decline in revenue from elimination of the administrative payment fee; however, the impact is not anticipated to be significant. The OCA does not anticipate a significant decrease in fine or court cost collections to local governments due to the agency anticipating that judicial waiver of court costs and fines will only occur in cases where defendants are currently not paying these costs and fines.

According to the Justice of the Peace and Constables Association, the bill would create the need for additional man hours and additional court personnel to manage caseloads and certified mail, which would have a significant fiscal impact on justice courts.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety, 608
Department of Motor Vehicles

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