

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 11, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1913 by Zaffirini (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 SB1913, As Introduced: a negative impact of (\$16,256,000) through the biennium ending August 31, 2019.

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 determined to be indigent or unable to pay receiving a waiver or discharge from fines, fees, and court costs.

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 1
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 to make changes to the assessment and collection of criminal court costs for defendants who are determined by a court to be financially unable to pay their fees.

The bill would require standard language in citations, complaints, and other notices regarding alternatives to payment to satisfy fines and court costs assessed against a defendant who is unable to pay. The bill would limit a court to the use of personal bonds for a defendant charged with certain misdemeanors, and a court would be prohibited from assessing a fee associated with that bond.

The bill would require a court to make a written determination that a defendant has sufficient resources to pay all or part of assessed fines and costs before the court could assess such fines and costs. The bill would allow a court to waive a criminal fine and court costs at any time if the court determines the defendant is indigent or was a child at the time of the offense if any alternative to discharging the fines and costs would create an undue hardship for the defendant.

The bill would require a court, before issuing a capias pro fine for a defendant for failure to pay, to hold a hearing. Only if the defendant failed to appear or if the defendant appears and the court makes a finding that the defendant's failure to pay has been willful would the court be allowed to issue a capias pro fine. If the defendant voluntarily appears to resolve the matter before the capias pro fine is executed, the court would be required to recall the capias pro fine.

The bill would increase the amount of credit provided to defendants who satisfy payment of their fine and court costs through confinement in jail or community service. The credit for confinement in jail would increase from \$50 per day to \$100 per day, and the credit for community service would increase from \$50 to \$100 for every eight hours of service performed. The bill would also expand the types of work authorized under community service to include work for a religious organization, a neighborhood association or group, or an educational institution. Defendants would also be able to attend a job skills training program or GED preparatory class to complete their community service requirements.

The bill would require a court to notify a defendant via telephone or mail before issuing an arrest warrant for the defendant's failure to appear. The notice would be required to provide dates on which the defendant can appear without threat of arrest to resolve the matter. The notice would also be required to include information on available payment alternatives.

The bill would prevent a court from referring a case to a collections agency for a failure to appear that occurs prior to the adjudication of a case. The bill would also reduce the amount of the collection fee from 30 percent to 15 percent of each item collected and would prevent a collection agency from collecting a fine or costs from a defendant determined by the court to be unable to pay.

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 of the judgment. The bill would also repeal the \$2 transaction fee that is imposed on every payment toward the fine, costs, and restitution. The time payment fee is split equally between the State and

local government, while the transaction fee is wholly local.

The bill would allow a court to waive the \$20 Scofflaw fee and the \$30 Omnibase fee if the court determines that a defendant is unable to pay or if good cause exists to waive the fees. The bill would prohibit the Department of Motor Vehicles (DMV) and the Department of Public Safety (DPS) from imposing program fees or denying or suspending a person's driver's license or vehicle registration if a court has found the person is unable to pay. The bill would also limit to two years the amount of time a person's driver's license or vehicle registration may be denied or suspended for failure to appear or to pay a program fee, fine, or cost.

The bill would allow municipal judges to issue an occupational driver's license.

The bill would take effect September 1, 2017.

Methodology

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 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. The CPA also anticipates a slight decrease in revenue to the Compensation to Victims of Crime Fund 469 of \$5,000 each year.

Based on the analysis of OCA, DPS, and DMV, duties and responsibilities associated with implementing the provisions of the bill that pertain to these agencies could be accomplished using existing resources.

Local Government Impact

According to the Office of Court Administration (OCA), local governments are anticipated to see a decrease of \$11,423,573 from the elimination of the time payment fee. However, local governments should see decreased warrant processing and jail costs from the provisions of the bill that are anticipated to be significant. Some local governments may see a decline in revenue from the elimination of the transaction fee; however the impact is not anticipated to be significant. OCA does not anticipate a significant decrease in fine or court cost collections to local governments because judicial waiver of costs/fines will only occur in cases where defendants are not currently paying the fines/costs. The overall impacts of the bill will vary by county and municipality based upon the volume of cases.

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

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

LBB Staff: UP, KJo, MW, GDz, PBO, JGA