

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 22, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB346 by Zaffirini (Relating to the consolidation, allocation, classification, and repeal of certain criminal court costs and other court-related costs, fines, and fees; imposing certain court costs and fees and increasing and decreasing the amounts of certain other court costs and fees.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB346, As Passed 2nd House: a negative impact of (\$50,637,667) through the biennium ending August 31, 2021. In addition, there would be a positive impact of \$23,166,667 to multiple General Revenue-Dedicated accounts and \$28,317,667 in Other Funds through the biennium ending August 31, 2021.

Functions of the bill pertaining to the assessment and collection of criminal court costs for defendants who are financially unable to pay their fines, fees, and costs imposed when arrested for, charged with, or convicted of certain criminal offenses would have a negative, but indeterminate, fiscal impact to the state due to anticipated decreases in revenue associated with an unknown number of defendants being unable to pay court costs and fines.

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
2020	(\$20,638,667)
2021	(\$29,999,000)
2022	(\$29,080,000)
2023	(\$28,197,000)
2024	(\$27,349,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Law Officer Stds & Ed Ac 116	Probable Revenue Gain/(Loss) from Criminal Justice Plan Ac 421	Probable Revenue Gain/(Loss) from Crime Victims Comp Acct 469
2020	(\$20,638,667)	\$268,000	\$350,667	\$222,667
2021	(\$29,999,000)	\$392,000	\$492,000	\$349,000
2022	(\$29,080,000)	\$381,000	\$458,000	\$361,000
2023	(\$28,197,000)	\$371,000	\$426,000	\$371,000
2024	(\$27,349,000)	\$360,000	\$397,000	\$381,000

Fiscal Year	Probable Revenue Gain/(Loss) from Jud & Court Training Fd 540	Probable Revenue Gain/(Loss) from Law Enf/Mgmt Instit Acct, estimated 581	Probable Revenue Gain/(Loss) from Crime Stop Assistance Acc 5012	Probable Revenue Gain/(Loss) from Breath Alcohol Test Acct 5013
2020	\$258,000	\$90,667	\$26,667	\$46,000
2021	\$375,000	\$133,000	\$39,000	\$67,000
2022	\$363,000	\$129,000	\$37,000	\$65,000
2023	\$352,000	\$125,000	\$37,000	\$63,000
2024	\$341,000	\$122,000	\$35,000	\$61,000

Fiscal Year	Probable Revenue Gain/(Loss) from Juv Crime & Delinq Cntr, estimated 5029	Probable Revenue Gain/(Loss) from Fair Defense 5073	Probable Revenue Gain/(Loss) from Correctional Mgt Institute, est 5083	Probable Revenue Gain/(Loss) from Emergency Radio Infrastructure 5153
2020	\$100,667	\$978,667	\$98,667	\$99,333
2021	\$145,000	\$233,000	\$142,000	\$136,000
2022	\$139,000	\$219,000	\$136,000	\$122,000
2023	\$134,000	\$206,000	\$131,000	\$109,000
2024	\$130,000	\$194,000	\$125,000	\$98,000

Fiscal Year	Probable Revenue Gain/(Loss) from State Highway Fund 6	Probable Revenue Gain/(Loss) from Judicial Fund 573	Probable Revenue Gain/(Loss) from Law Enforcement Retirement Fund 977	Probable Revenue Gain/(Loss) from Statewide Electronic Filing System 5157
2020	(\$117,333)	\$2,526,000	\$300,667	\$176,000
2021	(\$177,000)	\$2,835,000	\$440,000	\$197,000
2022	(\$178,000)	\$1,914,000	\$429,000	\$131,000
2023	(\$179,000)	\$1,025,000	\$419,000	\$65,000
2024	(\$180,000)	\$167,000	\$408,000	\$1,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Truancy Prevention and Diversion</i> 5164	Probable Revenue Gain/(Loss) from <i>Jury Service Fund (New Other Fund)</i>	Probable Revenue Gain/(Loss) from <i>DNA Testing (New General Revenue-Dedicated Account)</i>	Probable Revenue Gain/(Loss) from <i>Specialty Court Account (Previously General Revenue-Dedicated Drug Court Account 5174)</i>
2020	\$514,000	\$9,500,000	\$206,667	\$204,667
2021	\$569,000	\$13,751,000	\$299,000	\$226,000
2022	\$374,000	\$13,270,000	\$289,000	\$149,000
2023	\$186,000	\$12,805,000	\$279,000	\$73,000
2024	\$4,000	\$12,357,000	\$269,000	\$1,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Transportation Administrative Fee (New General Revenue-Dedicated Account)</i>
2020	\$6,427,333
2021	\$9,304,000
2022	\$8,978,000
2023	\$8,664,000
2024	\$8,361,000

Fiscal Analysis

The bill would make amendments to several different codes relating to the allocation of state criminal court costs, would increase certain court costs, reduce certain other court costs, and repeal certain court costs.

The bill would create two new accounts in the General Revenue Fund: DNA Testing and Transportation Administrative Fee, and would specify that funds in these accounts can only be used for purposes as defined in the bill. The bill would also re-designate General Revenue-Dedicated Drug Court Account No. 5174 as the General Revenue-Dedicated Specialty Court Account.

In addition, the bill would create one new other fund in the state treasury: the Jury Service Fund to provide juror reimbursements to counties. The bill requires that if, at any time, the unexpended balance of the Jury Service Fund exceeds \$10,000,000, then the Comptroller shall transfer the amount in excess of \$10,000,000 to General Revenue-Dedicated Fair Defense Account No. 5073.

The bill would amend the Local Government Code to distinguish between two consolidated court costs: the state consolidated court cost which exists under current law and which the bill amends, and the local consolidated court cost which is newly created under the bill's provisions.

The bill increases the state consolidated court cost charged for felony convictions from \$133 to \$185, for Class A and B misdemeanor convictions from \$83 to \$147, and for certain Class C misdemeanor convictions from \$40 to \$62. The bill would make several changes to the distribution of the state consolidated court cost by changing the percentage distribution of revenue for existing purposes and adding additional purposes to which consolidated court cost revenue would be directed. This includes distribution into General Revenue and other fund accounts created by the bill. In circumstances where a new item is added to the distribution, the bill also either repeals a related court cost or reduces the court cost to remove the amount remitted to the state.

The table below provides a comparison of these changes to the state consolidated court cost from current law versus those proposed in the bill.

Consolidated Court Cost Item	Account	Current Law Percent Distribution	Senate Bill 346 Percent Distribution
Bill Blackwood LEMI	GR-D 581	2.1683	1.4741%
Breath Alcohol Testing	GR-D 5031	0.5507	0.3900%
Center for Study of Juvenile Crime (Prairie View A&M)	GR-D 5029	1.209	0.8540%
Correctional Management Institute of Texas	GR-D 5083	1.209	0.8522%
Crime Stoppers Assistance	GR-D 5012	0.2581	0.2427%
Crime Victims' Compensation	GR-D 469	37.6338	24.6704%
Criminal Justice Planning	GR-D 421	12.5537	8.5748%
DNA Testing	New GR-D Account	No Distribution	0.1394%
Emergency Radio Infrastructure	GR-D 5153	5.5904	3.6913%
Fair Defense Account	GR-D 5073	17.8448	17.8857%
Judicial Court Personnel Training Fund	GR-D 540	4.8362	3.3224%
Jury Service Fund	New Other Fund	No Distribution	6.4090%
Law Enforcement Officers Standards and Education	GR-D 116	5.0034	3.4418%
Law Enforcement Retirement Fund	GR-D 977	11.1426	7.2674%
Judicial Fund	Fund 573 (Other Fund)	No Distribution	12.2667%
Specialty Court Account	Redesignated GR-D Account	No Distribution	1.0377%
Statewide Electronic Filing System	GR-D 5157	No Distribution	0.5485%
Transportation Administrative Fee Account	New GR-D Account	No Distribution	4.3363%
Truancy Prevention and Diversion	GR-D 5164	No Distribution	2.5956%

The bill would also eliminate and repeal multiple statutes associated with other criminal court costs which impact local government revenue. These would be replaced by a local consolidated court cost established in the bill. The local consolidated court cost would charge \$105 for a felony conviction, \$123 for a Class and B misdemeanor conviction, and \$14 for a Class C misdemeanor conviction other than a pedestrian or parking offense.

The bill renames several court costs to reimbursement fees or fines without changing the application of the existing law. The bill renames the Time Payment Fee as the Time Payment Reimbursement Fee, reduces the fee from \$25 to \$15, and eliminates the remittance of 50 percent of the fee to the state. The bill renames the failure to appear and failure to pay administrative fee as a reimbursement fee and reduces the fee from \$30 to \$10 to remove the portion of the fee remitted to the state. The bill repeals the Child Support and Court Management Account and related statutes. The bill makes conforming changes to other statutes for these changes. The bill would amend the Code of Criminal Procedure and the Transportation Code by making changes to the assessment and collection of criminal court costs for defendants who are financially unable to pay their fines, fees, and costs imposed when arrested for, charged with, or convicted of certain criminal offenses.

The bill would require a court to hold a hearing to determine whether the portion of fines, fees, and costs that pertain to the judgement of the case impose an undue hardship on the defendant and would have to consider allowing the defendant to satisfy the fines, fees, and costs through other methods including paying at a later date, performing community service, waiving the fine and costs in whole or in part, or a combination of methods. The bill would allow a court to reconsider the waiver of court costs and order the defendant to pay court costs if it is determined that the defendant has financial resources to do so on the court's own motion and during the community supervision period.

The bill would take effect January 1, 2020.

Methodology

Amounts reflected in the tables above are based on the Comptroller's Biennial Revenue Estimate for the 2020-21 biennium. The tables provide estimated fiscal impacts to each of the General Revenue, General Revenue-Dedicated, and Other Funds that would be impacted by the provisions of the bill using revenue estimates as provided by the Comptroller of Public Accounts. This includes impacts to the General Revenue-Dedicated and Other Fund accounts newly created and/or redesignated under the provisions of the bill. Amounts in fiscal year 2020 are prorated based on the bill's effective date of January 1, 2020, and court cost revenue estimates assume a 3.5 percent decrease for each fiscal year of the 2020-21 biennium and continuing through fiscal year 2024.

For informational purposes, it is estimated that fund balances in the new Jury Service Fund (Other Funds) will begin to exceed \$10 million beginning in 2022 and that transfers of these fund balances to General Revenue-Dedicated Fair Defense Account No. 5073 would begin in that fiscal year. The amount of the transfer is estimated to be \$6,545,098 in fiscal year 2022, \$6,297,171 in fiscal year 2023, and \$5,849,171 in fiscal year 2024. This would be similar to transfers under current law from the General Revenue Fund to General Revenue-Dedicated Fair Defense Account No. 5073 for the same purposes.

Local Government Impact

The bill's impact on local governments cannot be determined.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 601 Department of Transportation, 407 Commission on Law Enforcement, 537 State Health Services, Department of, 302 Office of the Attorney General, 327 Employees Retirement System, 405 Department of Public Safety, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 758 Texas State University System

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