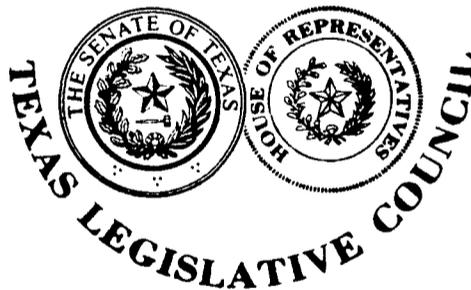


MAY 85

REVISOR'S REPORT

**TITLE 2,**  
**CODE OF CRIMINAL PROCEDURE**

A NONSUBSTANTIVE REVISION OF  
MISCELLANEOUS PROVISIONS RELATING  
TO CRIMINAL PROCEDURE



To be submitted to the 69th Legislature  
as part of the  
Texas Legislative Council's  
Statutory Revision Program

Austin, Texas  
February, 1985



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C868 Leg. Council Statutory Rev.  
Code of Criminal Procedure  
Title 2: nonsubstantive rev.

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C868 Leg. Council Statutory Rev  
Code of Criminal Procedure  
Title 2: nonsubstantive rev


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## FOREWORD

The Texas Legislative Council is required by law (Article 5429b-1, Vernon's Texas Civil Statutes) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable--all toward promoting the stated purpose of making the statutes "more accessible, understandable and usable" without altering the sense, meaning, or effect of the law.

Under the new classification scheme adopted by the council, our statutes will eventually consist of 26 codes. To date, the council has produced and the legislature has enacted the Business & Commerce Code, Education Code, Water Code, Parks and Wildlife Code, Alcoholic Beverage Code, Natural Resources Code, Property Code, Tax Code, Agriculture Code, and Human Resources Code. The council staff also assisted the state bar in the Penal Code and Family Code projects, which were substantive revisions, and revised the retirement laws into the new Title 110B of the Revised Statutes.

Title 2 of the Code of Criminal Procedure is a nonsubstantive revision of the articles that were expressly saved from repeal by the legislation enacting the Code of Criminal Procedure, 1965, but that were not incorporated in the new code. In current practice, West Publishing Company has labeled those articles as Miscellaneous Provisions and has published them immediately after the last article of the Code of Criminal Procedure, 1965. This project revises those articles and places them in an official Title 2 of the Code of Criminal Procedure, 1965.

This code is divided into titles, chapters, subchapters, and articles. Articles are numbered decimally, and the number to the left of the decimal point is the same as the chapter number. Gaps in chapter and section numbering are for future expansion.

The council staff encourages examination and review of this title by any interested person. Meticulous care has been taken within the staff to include in the proposed title all source law assigned to the title and to ensure that no substantive change has been made in the law. However, a complete and adequate outside review is necessary.

The revisor's report is arranged to facilitate review. The report states the Revised Law, which is the text of the proposed new language, and then provides the Source Law, which is the text of the current law from which the revised law is taken. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after the source law. All substance in the source law should be revised in the revised law or the reason for its omission should be explained in a revisor's note.

Because of the extensive reorganization of many statutes, and even sentences within a statute, it may be helpful for a reviewer to refer to the source law as printed in Vernon's Texas Code of Criminal Procedure (so that the quoted source law may be seen in present context) and to the disposition table (showing where the current statutes appear, as revised, in the title). The

disposition table is printed as Appendix B to the revisor's report.

The revision will require conforming amendments to a few statutes not included in the title; these amendments are printed in Appendix A to the revisor's report.

In reviewing the proposed title, the reader should keep in mind the following:

(1) The Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) applies to the title. That Act sets out certain principles of statutory construction applicable to new codes and also provides some definitions. The Act is printed as Appendix C to the revisor's report.

(2) The proposed title is written in modern American English. Where possible, the present tense is used; the active rather than the passive voice is preferred; and the singular is used in preference to the plural.

(3) This is a nonsubstantive revision. The staff's authority does not include improving the substance of law. The sole purpose of this draft is to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its meaning or legal effect. If a particular source statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity is preserved.

The Legislative Title of the Government Code project is under the direction of Gary Kansteiner, Legislative Counsel, of the council staff. Questions, comments, or suggestions may be directed to him at P.O. Box 12128, Capitol Station, Austin, Texas 78711, or at telephone number (512) 475-2736.

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14 TITLE 2. CODE OF CRIMINAL PROCEDURE

15 CHAPTER 101. GENERAL PROVISIONS

16 Revised Law

17 Art. 101.001. PURPOSE OF TITLE. (a) This title is enacted  
18 as a part of the state's continuing statutory revision program,  
19 begun by the Texas Legislative Council in 1963 as directed by the  
20 legislature in Chapter 448, Acts of the 58th Legislature, Regular  
21 Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes).  
22 The program contemplates a topic-by-topic revision of the state's  
23 general and permanent statute law without substantive change.

24 (b) Consistent with the objectives of the statutory revision  
25 program, the purpose of this title is to make the law encompassed  
26 by this title more accessible and understandable, by:

- 27 (1) rearranging the statutes into a more logical order;
- 28 (2) employing a format and numbering system designed to
- 29 facilitate citation of the law and to accommodate future expansion

1 of the law;

2 (3) eliminating repealed, duplicative, unconstitutional,  
3 expired, executed, and other ineffective provisions; and

4 (4) restating the law in modern American English to the  
5 greatest extent possible. (New.)

6 Revisor's Note

7 This article is included as an aid to those who  
8 are not familiar with the purposes and objectives of  
9 the statutory revision program.

10 As explained in the foreword to this report,  
11 revisor's notes are intended as an aid to review the  
12 proposed title. Their primary purpose is to explain  
13 apparent differences between the source law and the  
14 revised law. They are part of the staff report to the  
15 legislature; they are not part of the bill enacting the  
16 title and, as a general rule, are not specifically  
17 considered by the legislature at the time of the  
18 title's enactment. The revisor's notes should not be  
19 considered an official commentary on the law being  
20 revised.

21 Revised Law

22 Art. 101.002. CONSTRUCTION OF TITLE. The Code Construction  
23 Act (Article 5429b-2, Vernon's Texas Civil Statutes) applies to the  
24 construction of each provision in this title, except as otherwise  
25 expressly provided by this title. (New.)

26 Revisor's Note

27 This article states the obvious, but it should be  
28 helpful to those not familiar with the statutory  
29 revision program.

1 Revised Law

2 Art. 101.003. INTERNAL REFERENCES. In this title:

3 (1) a reference to a chapter or article without further  
4 identification is a reference to a chapter or article of this  
5 title; and

6 (2) a reference to a subchapter, article, subsection,  
7 subdivision, paragraph, or other numbered or lettered unit without  
8 further identification is a reference to a unit of the next larger  
9 unit of this title in which the reference appears. (New.)

10 Revisor's Note

11 This article is added as a drafting convenience  
12 to avoid unnecessary identification of the title unit  
13 to which reference is made. A reader who reads a  
14 reference to "Chapter 102" is advised by this section  
15 that the reference is to Chapter 102 of this title.  
16 Similarly, a reference to "Subsection (a)" is a  
17 reference to "Subsection (a) of this article." Most  
18 internal citations are clearly understood from the  
19 context, and this article simply aids that  
20 understanding and expressly allows a shorter citation  
21 form.

22 CHAPTER 102. COSTS PAID BY DEFENDANTS

23 SUBCHAPTER A. GENERAL COSTS

24 Revised Law

25 Art. 102.001. FEES FOR SERVICES OF PEACE OFFICERS. (a) A  
26 defendant convicted of a misdemeanor shall pay the following fees  
27 for services performed in the case by a peace officer:

28 (1) \$3 for executing an arrest warrant or capias or for  
29 making an arrest without a warrant;

- 1           (2) \$1 for summoning a witness;
- 2           (3) \$2 for serving a writ not otherwise listed in this  
3 article;
- 4           (4) \$2 for taking and approving a bond and, if necessary,  
5 returning the bond to the courthouse;
- 6           (5) \$2 for a commitment or release;
- 7           (6) \$2 for summoning a jury, if a jury is summoned; and
- 8           (7) \$4 for each day's attendance of a prisoner in a habeas  
9 corpus case if the prisoner has been remanded to custody or held to  
10 bail.

11           (b) In addition to fees provided by Subsection (a), a  
12 defendant required to pay fees under this article shall also pay 15  
13 cents per mile for mileage required of an officer to perform a  
14 service listed in this subsection and to return from performing  
15 that service. If the service provided is the execution of a writ  
16 and the writ is directed to two or more persons, or the officer  
17 executes more than one writ in a case, the defendant is required to  
18 pay only mileage actually and necessarily travelled. In  
19 calculating mileage, the officer must use the railroad or the most  
20 practical route by private conveyance. This subsection applies to:

21           (1) conveying a prisoner after conviction to the county  
22 jail;

23           (2) conveying a prisoner arrested on a warrant or capias  
24 issued in another county to the court or jail of the county in  
25 which the warrant or capias was issued; and

26           (3) travelling to execute criminal process, to summon or  
27 attach a witness, and to execute process not otherwise described by  
28 this article.

29           (c) If an officer attaches a witness on the order of a court  
30 outside the county in which he serves, the defendant shall pay \$5  
31 per day or part of a day spent by the officer conveying the witness  
32 and actual necessary expenses for travel by the most practical

1 public conveyance. In order to receive expenses under this  
2 subsection, the officer must make a sworn statement of the expenses  
3 and the judge issuing the attachment must approve the statement.

4 (d) A defendant shall pay for the services of a sheriff or  
5 constable who serves process and attends an examining trial in a  
6 misdemeanor case the same fees allowed for those services in the  
7 trial of a misdemeanor, not to exceed \$3. (Arts. 53.01, 53.04,  
8 V.T.C.C.P., Part I.)

9 Source Law

10 Art. 53.01. The following fees shall be allowed  
11 the sheriff, or other peace officer performing the same  
12 services in misdemeanor cases, to be taxed against the  
13 defendant on conviction:

14 1. For executing each warrant of arrest or  
15 capias, or making arrest without warrant, \$3.00.

16 2. For summoning each witness, \$1.00.

17 3. For serving any writ not otherwise provided  
18 for, \$2.00.

19 4. For taking and approving each bond, and  
20 returning the same to the courthouse, when necessary,  
21 \$2.00.

22 5. For each commitment or release, \$2.00.

23 6. Jury fee, in each case where a jury is  
24 actually summoned, \$2.00.

25 7. For attending a prisoner on habeas corpus,  
26 when such prisoner, upon a hearing, has been remanded  
27 to custody or held to bail, for each day's attendance,  
28 \$4.00.

29 8. For conveying a witness attached by him to  
30 any court out of his county, \$5.00 for each day or  
31 fractional part thereof, and his actual necessary  
32 expenses by the nearest practicable public conveyance,  
33 the amount to be stated by said officer, under oath,  
34 and approved by the judge of the court from which the  
35 attachment issued.

36 9. For conveying a prisoner after conviction to  
37 the county jail, for each mile, going and coming, by  
38 the nearest practicable route by private conveyance,  
39 fifteen cents per mile, or by railway, fifteen cents  
40 per mile.

41 10. For conveying a prisoner arrested on a  
42 warrant or capias issued from another county to the  
43 court or jail of the county from which the process was  
44 issued, for each mile traveled, going and coming, by  
45 the nearest practicable route, fifteen cents.

46 11. For each mile he may be compelled to travel  
47 in executing criminal process and summoning or  
48 attaching witness, fifteen cents. For traveling in the  
49 service of process not otherwise provided for, the sum  
50 of fifteen cents for each mile going and returning. If  
51 two or more persons are mentioned in the same writ, or  
52 two or more writs in the same case, he shall charge



1 county is liable for the fees provided by this article for  
2 witnesses in the defendant's case.

3 (d) If a person is subpoenaed as a witness in a criminal  
4 case and fails to appear, the person is liable for the costs of an  
5 attachment, unless he shows good cause to the court why he did not  
6 appear. (Arts. 1055 (part), 1078, 1079, 1080, 1081, 1082,  
7 V.T.C.C.P., Part II.)

8 Source Law

9 Art. 1055. The county shall not be liable to  
10 the . . . witness having costs in a misdemeanor case  
11 where defendant pays his fine and costs.

12 Art. 1078. Witnesses in criminal cases shall be  
13 allowed one dollar and fifty cents a day for each day  
14 they are in attendance upon the court, and six cents  
15 for each mile they may travel in going to or returning  
16 from the place of trial.

17 Art. 1079. Upon conviction, the costs accruing  
18 from the attendance of witnesses shall be taxed against  
19 the defendant, upon the affidavit of such witness, or  
20 of some credible person, stating the number of days  
21 that such witness has attended upon the court in the  
22 case, and the number of miles he has traveled in going  
23 to and returning from the place of trial. The  
24 affidavit shall be filed with the papers in the case.

25 Art. 1080. No fees shall be allowed to a person  
26 as a witness fees unless such person has been  
27 subpoenaed, attached or recognized as a witness in the  
28 case.

29 Art. 1081. Each clerk of the district and county  
30 court or county court at law, and each justice of the  
31 peace, shall keep a book, in which shall be entered the  
32 number and style of each criminal action in their  
33 respective courts, and the name of each witness  
34 subpoenaed, attached or recognized to testify therein,  
35 showing whether on the part of the State or the  
36 defendant.

37 Art. 1082. In any criminal case where a witness  
38 has been subpoenaed and fails to attend, he shall be  
39 liable for the costs of an attachment, unless good  
40 cause be shown to the court why he failed to obey the  
41 subpoena.

1 Revisor's Note

2 Article 1078, V.T.C.C.P., Part II, fails to note  
3 that nonresident witnesses are entitled to greater  
4 compensation than resident witnesses. The revised law  
5 notes that an exception to the amount of compensation  
6 for witnesses provided by this article is the amount of  
7 compensation for nonresident witnesses provided by  
8 Article 35.27, V.T.C.C.P., Part I.

9 Revised Law

10 Art. 102.003. TRIAL FEE. (a) A defendant convicted in a  
11 trial before a judge or jury in a county court or a county court at  
12 law shall pay a trial fee of \$5.

13 (b) If two or more defendants are tried jointly, only one  
14 trial fee of \$5 may be imposed under this article. (Art. 53.06,  
15 V.T.C.C.P., Part I.)

16 Source Law

17 Art. 53.06. In each case of conviction in a  
18 county court or a county court at law, whether by a  
19 jury or by a court, there shall be taxed against the  
20 defendant or against all defendants, when several are  
21 held jointly, a trial fee of \$5.00, the same to be  
22 collected and paid over in the same manner as in the  
23 case of a jury fee; and there shall be no trial fee  
24 allowed in a justice court in a case involving the  
25 violation of any penal statute or of the Uniform Act  
26 Regulating Traffic on Highways.

27 Revisor's Note

28 (1) The revised law omits that part of Article  
29 53.06, V.T.C.C.P., Part II, that directs that trial  
30 fees be collected and disposed of "in the same manner  
31 as in the case of a jury fee." Article 103.004 of the  
32 revised title requires an officer collecting money  
33 under this article to deposit the money in the county

1 treasury.

2 (2) The revised law omits that part of Article  
3 53.06 that bars certain fees in justice courts.  
4 Article 103.002 of the revised title prohibits the  
5 collection of costs not expressly provided by law.

6 Revised Law

7 Art. 102.004. JURY FEE. (a) A defendant convicted by a  
8 jury in a trial before a justice court shall pay a jury fee of \$3.  
9 A defendant convicted by a jury in a county court, a county court  
10 at law, or a district court shall pay a jury fee of \$5.

11 (b) If two or more defendants are tried jointly in a justice  
12 court, only one jury fee of \$3 may be imposed under this article.  
13 If the defendants sever and are tried separately, each defendant  
14 convicted shall pay a jury fee. (Art. 53.05, V.T.C.C.P., Part I;  
15 Arts. 1075, 1076, V.T.C.C.P., Part II.)

16 Source Law

17 Art. 53.05. In each criminal action tried by a  
18 jury in the district or county court, or county court  
19 at law, a jury fee of \$5.00 shall be taxed against the  
20 defendant if he is convicted.

21 Art. 1075. If the defendant is convicted in a  
22 criminal action tried by a jury in a justice court, a  
23 jury fee of three dollars shall be taxed against him.

24 Art. 1076. Only one jury fee shall be taxed  
25 against several defendants tried jointly. A jury fee  
26 shall be taxed in each trial if they sever and are  
27 tried separately.

28 Revised Law

29 Art. 102.005. FEES TO CLERKS. (a) A defendant convicted of  
30 an offense in a county court, a county court at law, or a district  
31 court shall pay for the services of the clerk of the court a fee of  
32 \$25. The fee imposed under this subsection is for all clerical  
33 duties performed by the clerk, including:

34 (1) filing a complaint or information;

- 1 (2) docketing the case;  
2 (3) taxing costs against the defendant;  
3 (4) issuing original writs and subpoenas;  
4 (5) swearing in and impaneling a jury;  
5 (6) receiving and recording the verdict;  
6 (7) filing each paper entered in the case; and  
7 (8) swearing in witnesses in the case.

8 (b) The clerk of the county court at law or the clerk of a  
9 county or district court may charge a fee of \$1 per page or part of  
10 a page for issuing a certified copy, transcript, or other paper  
11 permitted or required to be issued by the clerk. The clerk may  
12 issue a document only after receiving the fee imposed under this  
13 subsection.

14 (c) A person convicted of an offense for which the person's  
15 driver's license is automatically suspended shall pay a fee of \$10  
16 to the clerk of a court that issues to the person a certified copy  
17 of a court order restricting the person's license in a manner  
18 prescribed by Subsection (a), Section 25, Chapter 173, Acts of the  
19 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's  
20 Texas Civil Statutes). (Art. 1064, V.T.C.C.P., Part II.)

21 Source Law

22 Art. 1064. (1) The clerks of the county courts,  
23 county courts at law and district courts shall be  
24 allowed the following fees:

25 (a) A fee of Twenty-five Dollars (\$25.00) in  
26 each cause filed in said courts: for filing  
27 complaints, information, for docketing and taxing costs  
28 for each defendant, for issuing original writs, issuing  
29 subpoenas, for swearing and impaneling a jury,  
30 receiving and recording verdict, for filing each paper  
31 entered in this cause, for swearing witnesses and for  
32 all other clerical duties in connection with such cause  
33 in county and district courts.

34 (b) A fee of One Dollar (\$1.00) per page or part  
35 of a page, to be paid at the time each order is placed,  
36 for issuing each certified copy, transcript or any  
37 other paper authorized, permitted, or required, to be  
38 issued by said county clerk or clerk of county courts  
39 or clerk of district courts.

40 (c) A fee of Ten Dollars (\$10.00) for furnishing

1 to a person convicted of an offense for which the  
2 person's license is automatically suspended a certified  
3 copy of a court order restricting the person's license  
4 as prescribed by Subsection (a), Section 25, Chapter  
5 173, Acts of the 47th Legislature, Regular Session,  
6 1941, as amended (Article 6687b, Vernon's Texas Civil  
7 Statutes).

8 Revisor's Note

9 The revised law requires a conviction before the  
10 clerk of a court can impose a fee under Subsection (a)  
11 of the revised law. Article 1064, V.T.C.C.P., Part II,  
12 does not expressly require a conviction before  
13 imposition of that fee. However, in Attorney General  
14 Opinion H-1135 (1978), the attorney general held that a  
15 conviction was required for an imposition of the fee.  
16 The attorney general reasoned that the statute that  
17 originally imposed the fee, and which also imposed fees  
18 to be collected by the county attorney and sheriff,  
19 required conviction before collection. Three  
20 subsequent codifications of the statute retained the  
21 requirement. The 1925 codification retains the  
22 requirement for collections by county attorneys and  
23 sheriffs, and the attorney general determined that  
24 failure to retain the requirement for clerks was  
25 inadvertent.

26 Revised Law

27 Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. A petitioner  
28 seeking expunction of a criminal record shall pay the following  
29 fees:

30 (1) the fee charged for filing an ex parte petition in a  
31 civil action in district court;

32 (2) \$1 plus postage for each certified mailing of notice of  
33 the hearing date; and

1 (3) \$2 plus postage for each certified mailing of certified  
2 copies of an order of expunction. (Art. 53.08, V.T.C.C.P., Part I,  
3 as added by Ch. 604, Acts 66th Legis., 1979.)

4 Source Law

5 Art. 53.08. The following fees shall be taxed  
6 against the petitioner seeking expunction of a criminal  
7 record:

8 (1) the fee charged for filing ex parte  
9 petitions in other civil actions in district court;

10 (2) \$1.00 plus postage for each certified  
11 mailing of notice of the hearing date;

12 (3) \$2.00 plus postage for each certified  
13 mailing of certified copies of the order of expunction.

14 Revised Law

15 Art. 102.007. FEE FOR COLLECTING AND PROCESSING SIGHT ORDER.

16 (a) A county attorney, district attorney, or criminal district  
17 attorney may collect a fee if his office collects and processes a  
18 check or similar sight order if the check or similar sight order:

19 (1) has been issued or passed in a manner that makes the  
20 issuance or passing an offense under:

21 (A) Section 31.03, Penal Code;

22 (B) Section 31.04, Penal Code; or

23 (C) Section 32.41, Penal Code; or

24 (2) has been forged, as defined by Section 32.21, Penal  
25 Code.

26 (b) The county attorney, district attorney, or criminal  
27 district attorney may collect the fee from any person who is a  
28 party to the offense described in Subsection (a).

29 (c) The amount of the fee may not exceed:

30 (1) \$5 if the face amount of the check or sight order does  
31 not exceed \$10;

32 (2) \$10 if the face amount of the check or sight order is  
33 greater than \$10 but does not exceed \$100;

34 (3) \$30 if the face amount of the check or sight order is

1 greater than \$100 but does not exceed \$300;

2 (4) \$50 if the face amount of the check or sight order is  
3 greater than \$300 but does not exceed \$500; and

4 (5) \$75 if the face amount of the check or sight order is  
5 greater than \$500.

6 (d) If the person from whom the fee is collected was a party  
7 to the offense of forgery, as defined by Section 32.21, Penal Code,  
8 committed by altering the face amount of the check or sight order,  
9 the face amount as altered governs for the purposes of determining  
10 the amount of the fee.

11 (e) Fees collected under this article shall be deposited in  
12 the county treasury in a special fund to be administered by the  
13 county attorney, district attorney, or criminal district attorney.  
14 Expenditures from this fund shall be at the sole discretion of the  
15 attorney and may be used only to defray the salaries and expenses  
16 of the prosecutor's office, but in no event may the county  
17 attorney, district attorney, or criminal district attorney  
18 supplement his own salary from this fund. (Art. 53.08, V.T.C.C.P.,  
19 Part I, as added by Ch. 734, Acts 66th Legis., 1979.)

#### 20 Source Law

21 Art. 53.08. (a) A county attorney, district  
22 attorney, or criminal district attorney may collect a  
23 fee if his office collects and processes a check or  
24 similar sight order if the check or similar sight  
25 order:

26 (1) has been issued or passed in a manner which  
27 makes the issuance or passing an offense under:

28 (A) Section 32.41, Penal Code;

29 (B) Section 31.03, Penal Code; or

30 (C) Section 31.04, Penal Code; or

31 (2) has been forged under Section 32.21, Penal  
32 Code.

33 (b) The county attorney, district attorney, or  
34 criminal district attorney may collect the fee from any  
35 person who is a party to the offense described in  
36 Subsection (a) of this article.

37 (c) The amount of the fee shall not exceed:

38 (1) \$5 if the face amount of the check or sight  
39 order does not exceed \$10;

40 (2) \$10 if the face amount of the check or sight  
41 order is greater than \$10 but does not exceed \$100;

1 (3) \$30 if the face amount of the check or sight  
2 order is greater than \$100 but does not exceed \$300;

3 (4) \$50 if the face amount of the check or sight  
4 order is greater than \$300 but does not exceed \$500;  
5 and

6 (5) \$75 if the face amount of the check or sight  
7 order is greater than \$500.

8 (d) If the person from whom the fee is collected  
9 was a party to the offense of forgery under Section  
10 32.21, Penal Code, committed by altering the face  
11 amount of the check or sight order, the face amount as  
12 altered governs for the purpose of determining the  
13 amount of the fee.

14 (e) Fees collected under this article shall be  
15 deposited in the county treasury in a special fund to  
16 be administered by the county attorney, district  
17 attorney, or criminal district attorney. Expenditures  
18 from this fund shall be at the sole discretion of the  
19 attorney, and may be used only to defray the salaries  
20 and expenses of the prosecutor's office, but in no  
21 event may the county attorney, district attorney, or  
22 criminal district attorney supplement his or her own  
23 salary from this fund. Nothing in this Act shall be  
24 construed to decrease the total salaries, expenses, and  
25 allowances which a prosecuting attorney's office is  
26 receiving at the time this Act takes effect.

27 Revisor's Note

28 Article 53.08, V.T.C.C.P., Part I, was added to  
29 the Code of Criminal Procedure, 1965, by Chapter 734,  
30 Acts of the 66th Legislature, 1979. The article  
31 provides that the Act is not intended to decrease  
32 salaries, expenses, and allowances received by  
33 prosecutors on the effective date of the Act enacting  
34 the article. This provision of Article 53.08 is  
35 omitted as executed.

36 Revised Law

37 Art. 102.008. FEES FOR SERVICES OF PROSECUTORS. (a) Except  
38 as provided by Subsection (b), a defendant convicted of a  
39 misdemeanor or a gambling offense shall pay a fee of \$15 for the  
40 trying of the case by the district or county attorney. If the  
41 court appoints an attorney to represent the state in the absence of  
42 the district or county attorney, the appointed attorney is entitled

1 to the fee otherwise due.

2 (b) No fee for the trying of a case may be charged against a  
3 defendant prosecuted in a justice court for violation of a penal  
4 statute or of the Uniform Act Regulating Traffic on Highways  
5 (Article 670ld, Vernon's Texas Civil Statutes).

6 (c) If two or more defendants are tried jointly, only one  
7 fee may be charged under this article. If the defendants sever and  
8 are tried separately, each defendant shall pay the fee.

9 (d) A defendant is liable for fees imposed by Subsection (a)  
10 if the defendant is convicted of an offense and:

11 (1) the defendant does not appeal the conviction; or

12 (2) the conviction is affirmed on appeal. (Art. 53.03,  
13 V.T.C.C.P., Part I; Arts. 1061, 1062, 1063, V.T.C.C.P., Part II.)

14 Source Law

15 Art. 53.03. The attorney representing the state  
16 before a justice court shall receive no fee for his  
17 appearance before said court in a case involving the  
18 violation of any penal statute or of the Uniform Act  
19 Regulating Traffic on Highways.

20 Art. 1061. District and county attorneys shall  
21 be allowed the following fees in cases tried in the  
22 district or county courts, or a county court at law, to  
23 be taxed against the defendant:

24 For every conviction under the laws against  
25 gaming when no appeal is taken, or when, on appeal, the  
26 judgment is affirmed, Fifteen Dollars (\$15.00);

27 For every other conviction in cases of  
28 misdemeanor, where no appeal is taken, or when, on  
29 appeal the judgment is affirmed, Fifteen Dollars  
30 (\$15.00).

31 Art. 1062. Where several defendants are tried  
32 together, but one fee shall be allowed and taxed in the  
33 case for the district or county attorney. Where the  
34 defendants sever and are tried separately, a fee shall  
35 be allowed and taxed for each trial.

36 Art. 1063. An attorney appointed by the court to  
37 represent the State in the absence of the district or  
38 county attorney shall be entitled to the fee allowed by  
39 law to the district or county attorney.

1 Revisor's Note

2 (1) Article 1061, V.T.C.C.P., Part II, imposes a  
3 fee for conviction of a "gaming offense." The revised  
4 law imposes the fee for conviction of a "gambling  
5 offense," in order to conform with the Penal Code  
6 description of the offense.

7 (2) Article XVI, Section 61, of the Texas  
8 Constitution provides that payment of district and  
9 county attorneys must be made on a salary basis and  
10 that fees for services performed by those officers must  
11 be paid into the county treasury. Article 1061,  
12 V.T.C.C.P., Part II, provides that district and county  
13 attorneys receive fees for trying certain cases. The  
14 revised law conforms to the requirements of Article  
15 XVI, Section 61, and emphasizes that the fees are not  
16 to be paid personally to the prosecuting attorney.

17 Revised Law

18 Art. 102.009. COURT COSTS IN CERTAIN COUNTIES. In counties  
19 with a population of two million or more according to the most  
20 recent federal census, the commissioners court may set court costs  
21 for persons convicted of a Class C misdemeanor in the justice  
22 courts. Court costs set as provided by this article may not exceed  
23 \$7 for each conviction. (Art. 53.09, V.T.C.C.P., Part I.)

24 Source Law

25 Art. 53.09. In counties with a population of two  
26 million or more according to the most recent federal  
27 census, the commissioners court may set court costs for  
28 persons convicted of a Class C misdemeanor in the  
29 justice courts. Court costs set as provided by this  
30 article may not exceed \$7 for each conviction. Funds  
31 collected under this article shall be deposited in the  
32 county treasury.



1 statute from the revised law to avoid the possibility  
2 of the statute being amended in a way that creates a  
3 conflict with the constitutional provision. For these  
4 reasons, Article 53.07 is omitted from the revision.  
5 Article 53.07 reads as follows:

6 Art. 53.07. (a) Every justice of  
7 the peace in the State of Texas shall be  
8 compensated by salary, the amount of which  
9 shall be determined by the commissioners  
10 court.

11 (b) All fines imposed by justices of  
12 the peace and all trial fees and other fees  
13 which justices of the peace are required by  
14 law to collect shall be deposited to the  
15 credit of the Officers' Salary Fund of the  
16 county, or whichever fund is used to pay  
17 the salaries of district, county or  
18 precinct officers.

19 (c) This Article shall not affect  
20 the salary of any justice of the peace who  
21 received compensation on a salary basis  
22 before the effective date of this Code, but  
23 such justices of the peace shall continue  
24 to receive the salary provided by law.

25 (d) All justices of the peace  
26 compensated on a fee basis before the  
27 effective date of this Code shall receive a  
28 salary to be determined by the  
29 commissioners court of each county, not to  
30 exceed the maximum amount of fees which  
31 they were entitled by law to retain before  
32 the effective date of this Code.

33 (3) Numerous laws exist that apply only to  
34 counties or municipalities having a certain number of  
35 inhabitants. A law of this type uses a population  
36 bracket, that is, a minimum or a maximum population  
37 figure, or both, to define the population range in  
38 which a county or municipality must fall in order to be  
39 covered by the law. Many of these bracket laws are  
40 unconstitutional because they violate Article III,  
41 Section 56, of the Texas Constitution, which prohibits  
42 the legislature from passing local laws regulating the  
43 affairs of counties or municipalities.

44 However, a law that uses a population bracket to  
45 limit its application to a class of counties or

1 municipalities does not violate Article III, Section  
2 56, if, after considering the subject of the law, one  
3 finds a reasonable justification for applying the law  
4 to that particular class of counties or municipalities  
5 and not to counties or municipalities outside the  
6 class. Miller v. El Paso County, 150 S.W.2d 1000 (Tex.  
7 1941); Smith v. Decker, 312 S.W.2d 632 (Tex. 1958);  
8 Robinson v. Hill, 507 S.W.2d 521 (Tex. 1974).

9 As a general rule in this revision, no attempt is  
10 made to determine under Article III, Section 56, the  
11 constitutionality of any bracket law unless the  
12 population bracket used in the law no longer applies to  
13 any county or municipality.

14 Article 1065, V.T.C.C.P., Part II, is a bracket  
15 law that does not currently apply to any county. In  
16 fact, for more than 10 years no county has been within  
17 the population bracket established by Article 1065.  
18 This has been the case in spite of the fact that in  
19 1981 the legislature passed a bill changing the  
20 population brackets of numerous laws so that after the  
21 federal census the laws would continue to apply to the  
22 counties and cities for which the laws were designed.  
23 The legislature did not update in 1981 the population  
24 bracket of Article 1065. Consequently, it is safe to  
25 conclude that the article is "deadwood."

26 Article 1065 is omitted from this revision  
27 because it no longer applies to any county and because,  
28 under the principles established by the Miller, Smith,  
29 and Robinson cases, it is an unconstitutional local  
30 law. Article 1065 reads as follows:

31 Art. 1065. In any county having a  
32 population of not less than 53,500, nor  
33 more than 53,800, according to the last

1 preceding federal census, the clerk of the  
2 county court is entitled to a fee of \$5 for  
3 the administrative costs of handling  
4 temporary support orders issued pursuant to  
5 Article 604, Penal Code of Texas, 1925, as  
6 amended. The fee shall be taxed against  
7 the defendant at the time the order is  
8 entered against him.

9 [Articles 102.010-102.050 reserved for expansion]

1                   SUBCHAPTER B.   CRIMINAL JUSTICE PLANNING FUND

2                                   Revised Law

3           Art. 102.051. MISDEMEANOR AND FELONY COSTS. (a) Except as  
4 provided by Subsection (d), a defendant convicted of a misdemeanor  
5 punishable by fine only, not to exceed \$200, shall pay as a cost of  
6 court \$5.

7           (b) A defendant convicted of a misdemeanor punishable by a  
8 fine exceeding \$200 shall pay as a cost of court \$10.

9           (c) A defendant convicted of a felony shall pay as a cost of  
10 court \$20.

11           (d) This article does not apply to a person convicted under  
12 the Uniform Act Regulating Traffic on Highways (Article 670ld,  
13 Vernon's Texas Civil Statutes) if the person is convicted of a  
14 provision of that Act regulating pedestrians and the parking of  
15 motor vehicles.

16           (e) Costs imposed under this article are in addition to  
17 other court costs and are due whether or not the defendant is  
18 granted probation in the case. The officer shall collect the costs  
19 in the same manner as other costs are collected in the case.  
20 (Secs. 3, 4, 5, Art. 1083, V.T.C.C.P., Part II.)

21                                   Source Law

22           Sec. 3. (a) The sum of \$5.00 shall be taxed as  
23 costs of court, in addition to other taxable court  
24 costs, upon conviction in each misdemeanor case in  
25 which the punishment prescribed for the offense is  
26 limited to a maximum fine of \$200.00 only.

27           (b) Convictions arising under the traffic laws  
28 of this State are specifically included and are those  
29 defined in:

30           (1) Chapter 173, Acts of the 47th Legislature,  
31 Regular Session, 1941, as amended (Article 6687b,  
32 Vernon's Texas Civil Statutes), known as the "Driver's  
33 License Law"; and

34           (2) Chapter 421, Acts of the 50th Legislature,  
35 1947, as amended (Article 670ld, Vernon's Texas Civil  
36 Statutes) known as the "Uniform Act Regulating Traffic  
37 on Highways," except laws regulating pedestrians and  
38 the parking of motor vehicles.

39           Sec. 4. The sum of \$10.00 shall be taxed as

1 costs of court in addition to other taxable court  
2 costs, upon conviction in each misdemeanor case, in  
3 which the punishment prescribed for the offense  
4 includes a fine of more than \$200.00, including cases  
5 in which probation is granted. The sum of \$20.00 shall  
6 be taxed as costs of court, in addition to other  
7 taxable court costs, upon conviction in each felony  
8 case, including cases in which probation is granted.

9 Sec. 5. The costs due the State under this Act  
10 shall be collected along with and in the same manner as  
11 other fines or costs are collected in the case.

12 Revisor's Note

13 The revised law omits that part of Section 4,  
14 Article 1083, V.T.C.C.P., Part II, that specifically  
15 imposes costs on convictions for offenses under Article  
16 6687b, Vernon's Texas Civil Statutes, and for certain  
17 offenses under the Uniform Act Regulating Traffic on  
18 Highways (Article 670ld, Vernon's Texas Civil  
19 Statutes). Offenses under those articles are  
20 misdemeanors, and the revised law's imposition of costs  
21 on misdemeanors generally makes the reference to  
22 specific articles unnecessary.

23 Revised Law

24 Art. 102.052. RECORD OF COLLECTION. (a) An officer  
25 collecting costs due under this subchapter in cases in municipal  
26 court shall keep separate records of the funds collected as costs  
27 under this subchapter and shall deposit the funds in the municipal  
28 treasury.

29 (b) An officer collecting costs due under this subchapter in  
30 justice, county, and district courts shall keep separate records of  
31 the funds collected as costs under this subchapter and shall  
32 deposit the funds in the county treasury.

33 (c) An officer collecting costs due under this subchapter in  
34 county courts on appeal from justice or municipal courts shall keep

1 separate records of the funds collected under this subchapter and  
2 shall deposit the funds in the county treasury. (Sec. 6, Art.  
3 1083, V.T.C.C.P., Part II.)

4 Source Law

5 Sec. 6. (a) The officer collecting the costs  
6 due under this Act in cases in municipal court shall  
7 keep separate records of the funds collected as costs  
8 under this Act, and shall deposit the funds in the  
9 municipal treasury.

10 (b) The officer collecting the costs due under  
11 this Act in justice, county and district courts shall  
12 keep separate records of the funds collected as costs  
13 under this Act, and shall deposit the funds in the  
14 county treasury.

15 (c) The officer collecting the costs due under  
16 this Act in county courts on appeal from justice or  
17 municipal courts shall keep separate records of the  
18 funds collected under this Act, and shall deposit the  
19 funds in the county treasury.

20 Revised Law

21 Art. 102.053. REPORTS REQUIRED. (a) Officers collecting  
22 funds due as costs under this subchapter shall file the report  
23 required under Article 103.005.

24 (b) If no funds due as costs under this subchapter have been  
25 collected in any quarter, the report required for each quarter  
26 shall be filed in the regular manner, and the report shall state  
27 that no funds due under this subchapter were collected. (Sec. 11,  
28 Art. 1083, V.T.C.C.P., Part II.)

29 Source Law

30 Sec. 11. (a) All officers collecting funds due  
31 as costs under this Act shall file the reports required  
32 under Articles 1001 and 1002, Code of Criminal  
33 Procedure, 1925.

34 (b) If no funds due as costs under this section  
35 have been collected in any quarter, the report required  
36 for each quarter shall be filed in the regular manner,  
37 and the report shall state that no funds due under this  
38 section were collected.

1 Revised Law

2 Art. 102.054. TRANSFER OF FUNDS TO COMPTROLLER. (a) The  
3 custodians of the municipal and county treasuries may deposit the  
4 funds collected under this subchapter in interest-bearing accounts.  
5 The custodians shall keep records of the amount of funds collected  
6 under this subchapter that are on deposit with them and shall on or  
7 before the last day of the month following each calendar quarter  
8 period of three months remit to the comptroller of public accounts  
9 funds collected under this subchapter during the preceding quarter.

10 (b) The municipal and county treasuries may retain 10  
11 percent of funds collected under this subchapter as a service fee  
12 for the collection. The city or county may also retain all  
13 interest accrued on the funds. (Sec. 7, Art. 1083, V.T.C.C.P.,  
14 Part II.)

15 Source Law

16 Sec. 7. On receipt, the custodians of the  
17 municipal and county treasuries with whom funds  
18 collected under this Act are entrusted may deposit the  
19 funds collected under this section in interest-bearing  
20 accounts. The custodians shall keep records of the  
21 amount of funds collected under this Act which are on  
22 deposit with them, and shall on or before the last day  
23 of the month following each calendar quarter period of  
24 three months remit to the Comptroller of Public  
25 Accounts funds collected under this Act during the  
26 preceding quarter. The municipal and county treasuries  
27 are hereby authorized to retain ten percent (10%) of  
28 funds collected under this Act as a service fee for  
29 said collection. The city or county may also retain  
30 all interest accrued on the funds.

31 Revised Law

32 Art. 102.055. SPECIAL FUND. The comptroller of public  
33 accounts shall deposit the funds received by him under this  
34 subchapter in a special fund to be known as the criminal justice  
35 planning fund. (Secs. 2, 8, Art. 1083, V.T.C.C.P., Part II.)

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Source Law

Sec. 2. There is hereby created and established a special fund to be known as the Criminal Justice Planning Fund.

Sec. 8. The Comptroller of Public Accounts shall deposit the funds received by him in a Special Fund to be known as the Criminal Justice Planning Fund.

Revised Law

Art. 102.056. DISTRIBUTION OF FUNDS. (a) The legislature shall determine and appropriate the necessary amount from the criminal justice planning fund to the criminal justice division of the governor's office for expenditure for state and local criminal justice projects and for costs of administering the funds for the projects. The criminal justice division shall allocate not less than 20 percent of these funds to juvenile justice programs. The distribution of the funds to local units of government shall be in an amount equal at least to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the incidence of crime in the jurisdiction of the combination of local units of government as compared to the incidence of crime in the state. All funds collected are subject to audit by the comptroller of public accounts. All funds expended are subject to audit by the state auditor. All funds collected or expended are subject to audit by the governor's division of planning coordination.

(b) The legislature may appropriate the unobligated balance of the criminal justice planning fund for the preceding biennium for the improvement and upgrading of the criminal justice system. (Secs. 9, 10, Art. 1083, V.T.C.C.P., Part II.)



1 maintenance of the criminal justice system.

2 CHAPTER 103. COLLECTION AND RECORDKEEPING

3 Revised Law

4 Art. 103.001. COSTS PAYABLE. A cost is not payable by the  
5 person charged with the cost until a written bill is produced or is  
6 ready to be produced, containing the items of cost, signed by the  
7 officer who charged the cost or the officer who is entitled to  
8 receive payment for the cost. (Arts. 1012, 1013, V.T.C.C.P., Part  
9 II.)

10 Source Law

11 Art. 1012. All costs in criminal actions or  
12 proceedings are due and payable in money.

13 Art. 1013. No costs shall be payable by any  
14 person until there be produced, or ready to be  
15 produced, unto the person chargeable with the same, a  
16 written bill containing the items of such costs, signed  
17 by the officer to whom such costs are due or by whom  
18 the same are charged.

19 Revised Law

20 Art. 103.002. CERTAIN COSTS BARRED. An officer may not  
21 impose a cost for a service not performed or for a service for  
22 which a cost is not expressly provided by law. (Art. 1011,  
23 V.T.C.C.P., Part II.)

24 Source Law

25 Art. 1011. No item of costs shall be taxed for a  
26 purported service which was not performed, or for a  
27 service for which no fee is expressly provided by law.

28 Revised Law

29 Art. 103.003. COLLECTION. District and county attorneys,  
30 clerks of district and county courts, sheriffs, constables, and  
31 justices of the peace may collect money payable under this title.

1 (Art. 1004, V.T.C.C.P., Part II.)

2 Source Law

3 Art. 1004. The officers charged by law with the  
4 collection of money, within the meaning of the three  
5 preceding articles, and who are required to make the  
6 reports therein mentioned are: District and county  
7 attorneys, clerks of the district and county courts,  
8 sheriffs, constables, and justices of the peace.

9 Revised Law

10 Art. 103.004. DISPOSITION OF COLLECTED MONEY. An officer  
11 who collects recognizances, bail bonds, fines, forfeitures,  
12 judgments, jury fees, and other obligations recovered in the name  
13 of the state under any provision of this title shall immediately  
14 pay the money to the county treasurer of the county for which the  
15 money was collected. (Art. 1006, V.T.C.C.P., Part II.)

16 Source Law

17 Art. 1006. Money collected by an officer upon  
18 recognizances, bail bonds and other obligations  
19 recovered upon in the name of the State under any  
20 provision of this Code, and all fines, forfeitures,  
21 judgments and jury fees, collected under any provision  
22 of this Code, shall forthwith be paid over by the  
23 officers collecting the same to the county treasurer of  
24 the proper county, after first deducting therefrom the  
25 legal fees and commissions for collecting the same.

26 Revisor's Note

27 The revised law omits that portion of the source  
28 law providing for the retention of commissions by  
29 officers. These provisions are repealed by V.A.C.S.  
30 Articles 332b, 332b-1, 332b-4, 3912e, and 6819b, which  
31 provide for the compensation of county officers,  
32 district and criminal district attorneys, and other  
33 officers authorized to collect fees.

1 Revised Law

2 Art. 103.005. REPORT REQUIRED. (a) An officer listed in  
3 Article 103.003 who collects money other than taxes for a county  
4 shall report to the commissioners court of the county for which the  
5 money was collected during each term of the court.

6 (b) An officer listed in Article 103.003 who collects money  
7 other than taxes for the state shall report to the district court  
8 having jurisdiction in the county the officer serves on the first  
9 day of each term of the court.

10 (c) The report must state for the reporting period:

11 (1) the amount of money collected by the officer;

12 (2) when and from whom the money was collected;

13 (3) the process by which the money was collected; and

14 (4) the disposition of the money.

15 (d) The report must be in writing and under the oath of the  
16 officer.

17 (e) If an officer has not collected money since the last  
18 report required to be filed with the court or the commissioners  
19 court, the officer shall report that fact to the court or  
20 commissioners court. (Arts. 1001, 1002, 1003, 1005, V.T.C.C.P.,  
21 Part II.)

22 Source Law

23 Art. 1001. All officers charged by law with  
24 collecting money in the name or for the use of the  
25 State shall report in writing under oath to the  
26 respective district courts of their several counties,  
27 on the first day of each term, the amounts of money  
28 that have come to their hands since the last term of  
29 their respective courts aforesaid.

30 Art. 1002. Such report shall state:

31 1. The amount collected.

32 2. When and from whom collected.

33 3. By virtue of what process collected.

34 4. The disposition that has been made of the  
35 money.

36 5. If no money has been collected, the report  
37 shall so state.

38 Art. 1003. A report, such as is required by the  
39 two preceding articles, shall also be made of all

1 moneys collected for the county, which report shall be  
2 made to each regular term of the commissioners court  
3 for each county.

4 Art. 1005. The moneys required to be reported  
5 embrace all moneys collected for the State or county  
6 other than taxes.

7 Revised Law

8 Art. 103.006. TRANSFER OF BILL OF COSTS. If a criminal  
9 action or proceeding is transferred from one court to another or is  
10 appealed, an officer of the court shall certify and sign a bill of  
11 costs stating the costs that have accrued and send the bill of  
12 costs to the court to which the action or proceeding is transferred  
13 or appealed. (Art. 1014, V.T.C.C.P., Part II.)

14 Source Law

15 Art. 1014. When a criminal action or proceeding  
16 is taken by appeal from one court to another, or  
17 whenever the same is in any other way transferred from  
18 one court to another, it shall be accompanied by a  
19 complete bill of all costs that have accrued therein,  
20 certified to and signed by the proper officer of the  
21 court from which the same is forwarded.

22 Revised Law

23 Art. 103.007. ADDITIONAL COSTS AFTER PAYMENT. After a  
24 defendant has paid costs, no more costs may be charged against the  
25 defendant unless the court rules on a motion presented to the court  
26 that additional costs are due. (Art. 1015, V.T.C.C.P., Part II.)

27 Source Law

28 Art. 1015. No further costs shall be taxed  
29 against or collected from a defendant after he has paid  
30 the costs taxed against him at the time of such  
31 payment, unless otherwise adjudged by the court upon a  
32 proper motion filed for that purpose.

33 Revised Law

34 Art. 103.008. CORRECTION OF COSTS. (a) On the filing of a

1 motion by a defendant not later than one year after the date of the  
2 final disposition of a case in which costs were imposed, the court  
3 in which the case is pending or was last pending shall correct any  
4 error in the costs.

5 (b) The defendant must notify each person affected by the  
6 correction of costs in the same manner as notice of a similar  
7 motion is given in a civil action. (Art. 1016, V.T.C.C.P., Part  
8 II.)

9 Source Law

10 Art. 1016. Whenever costs have been erroneously  
11 taxed against a defendant, he may have the error  
12 corrected, and the costs properly taxed, upon filing a  
13 written motion for that purpose in the court in which  
14 the case is then or was last pending. Such motion may  
15 be made at any time within one year after the final  
16 disposition of the case in which the costs were taxed,  
17 and not afterward. Notice of such motion shall be  
18 given to each party to be affected thereby, as in the  
19 case of a similar motion in a civil action.

20 Revised Law

21 Art. 103.009. FEE BOOKS. (a) Each clerk of a court, county  
22 judge, justice of the peace, sheriff, constable, and marshal shall  
23 keep a fee book. The fee book must contain:

24 (1) a statement of each fee or item of cost charged for a  
25 service rendered in a criminal action or proceeding;

26 (2) the number and style of the action or proceeding; and

27 (3) the name of the officer or person who is entitled to  
28 receive the fee.

29 (b) Any person may inspect a fee book described by  
30 Subsection (a).

31 (c) A statement of an item of cost in a fee book is prima  
32 facie evidence of the correctness of the statement.

33 (d) The county shall provide fee books to officers required  
34 to keep the books by this article. (Arts. 1009, 1010; Sec. 1

1 (part), Art. 1010a; Art. 1017; V.T.C.C.P., Part II.)

2 Source Law

3 Art. 1009. Each clerk of a court, county judge,  
4 justice of the peace, sheriff, constable and marshal,  
5 shall keep a fee book and enter therein all fees  
6 charged for service rendered in any criminal action or  
7 proceeding; which book may be inspected by any person  
8 interested in such costs.

9 Art. 1010. The fee book shall show the number  
10 and style of the action or proceeding in which the  
11 costs are charged, and shall name the officer or person  
12 to whom such costs are due, and state each item of  
13 costs separately.

14 [Art. 1010a]

15 [Sec. 1]

16 . . . in addition to the fee books now provided by  
17 law. . . .

18 Art. 1017. The items of costs taxed in an  
19 officer's fee book shall be prima facie evidence of the  
20 correctness of such items.

21 Revisor's Note

22 Article 1010a, V.T.C.C.P., Part II, requires the  
23 county to provide both fee books and receipt books to  
24 officers.

25 Revised Law

26 Art. 103.010. RECEIPT BOOK. (a) Each county shall provide  
27 a receipt book to each officer collecting fines and fees in  
28 criminal cases for the county. The book must contain duplicate  
29 official receipts. Each receipt must bear a distinct number and a  
30 facsimile of the official seal of the county.

31 (b) An officer who collects fines or fees in a criminal case  
32 shall give the person paying the money a receipt from the receipt  
33 book. The receipt must show:

34 (1) the amount of money paid;

35 (2) the date the money was paid;

36 (3) the style and number of the case in which the costs were

1 accrued;  
2 (4) the item of costs;  
3 (5) the name of the person paying the money; and  
4 (6) the official signature of the officer receiving the  
5 money. (Sec. 1 (part), Art. 1010a, V.T.C.C.P., Part II.)

6 Source Law

7 Art. 1010a  
8 Sec. 1. Each fee officer within this State  
9 collecting fines and fees in criminal cases shall be  
10 furnished, by the county . . . duplicate official  
11 receipts in book form, each of which receipts shall  
12 bear a distinct number, and a facsimile of the official  
13 seal of the county. Whenever any money is received by  
14 any such officer in his official capacity, to be  
15 applied on the payment of any fine or costs in any  
16 case, the person paying said money shall be given a  
17 receipt showing the amount, date, style of case, number  
18 of case and purpose for which paid, which receipt shall  
19 show the name of the person paying and the official  
20 signature of the receiving officer.

21 Revised Law

22 Art. 103.011. AUDIT. An officer provided with a receipt  
23 book under Article 103.010 shall deliver his receipt book to the  
24 county auditor at the end of each month's business. The county  
25 auditor shall examine the receipt book and determine whether the  
26 money collected has been properly disposed of. If each receipt in  
27 the book has been used, the county auditor shall keep the book. If  
28 any receipt in the book has not been used, the auditor shall return  
29 the book to the officer. Any person may inspect a receipt book  
30 kept by the county auditor. (Sec. 2, Art. 1010a, V.T.C.C.P., Part  
31 II.)

32 Source Law

33 Sec. 2. At the close of each month's business  
34 the receipt book shall be delivered to the County  
35 Auditor and the County Auditor shall thoroughly check  
36 said receipt book to see that proper disposition has  
37 been made of the money collected, and after such audit,  
38 the receipt books shall be returned to the officer, if

1 any portion of the book is unused, but if all the book  
2 is used it shall be retained by the County Auditor.  
3 Such books shall be open to public inspection.

4 Revised Law

5 Art. 103.012. PENALTY. (a) An officer commits an offense  
6 if the officer violates a provision of Article 103.010 or Article  
7 103.011.

8 (b) An offense under this article is a Class C misdemeanor.

9 (c) An officer who violates a provision of Article 103.010  
10 or Article 103.011 or whose deputy violates a provision of those  
11 articles may be removed from office on the petition of the county  
12 or district attorney. (Sec. 3, Art. 1010a, V.T.C.C.P., Part II.)

13 Source Law

14 Sec. 3. Any officer who shall fail or refuse to  
15 comply with any of the provisions of this Act shall be  
16 guilty of a misdemeanor, and upon conviction therefor,  
17 may be fined not to exceed Two Hundred Dollars  
18 (\$200.00), and may be removed from office upon petition  
19 of the County or District Attorneys; and the principal  
20 of any office shall be responsible for the failure of  
21 his Deputies to comply herewith, insofar as the remedy  
22 of removal from office shall apply; but the Deputy so  
23 failing or refusing to comply herewith shall be liable  
24 for the fine herein provided.

25 Revisor's Note

26 Article 1010a, V.T.C.C.P., Part II, created an  
27 offense for noncompliance with the provisions of "this  
28 Act." Article 1010a was enacted with three sections.  
29 Sections 1 and 2 of that article are Articles 103.010  
30 and 103.011 of the revised title.

31 The source law imposes as a penalty for an  
32 offense under this article a fine "not to exceed Two  
33 Hundred Dollars." The revised law classifies the  
34 penalty in the source law as a Class C misdemeanor in  
35 accordance with Section 12.23, Penal Code.

1 Revisor's Note  
2 (End of Chapter)

3 (1) The revised law omits Articles 1007 and  
4 1008, V.T.C.C.P., Part II. Those articles authorized  
5 officers to deduct and retain a commission from each  
6 fee or cost collected. Those articles were repealed by  
7 V.A.C.S. Articles 332b, 332b-1, 332b-4, 3912e, and  
8 6819b, which provide for the compensation of county  
9 officers and for district and criminal district  
10 attorneys. The omitted articles read as follows:

11 Art. 1007. The district or county  
12 attorney shall be entitled to ten per cent  
13 of all fines, forfeitures or moneys  
14 collected for the State or county, upon  
15 judgments recovered by him; and the clerk  
16 of the court in which said judgments are  
17 rendered shall be entitled to five per cent  
18 of the amount of said judgments, to be paid  
19 out of the amount when collected.

20 Art. 1008. The sheriff or other  
21 officer, except a justice of the peace or  
22 his clerk, who collects money for the State  
23 or county, except jury fees, under any  
24 provision of this Code, shall be entitled  
25 to retain five per cent thereof when  
26 collected.

27 (2) The revised law omits Article 1077,  
28 V.T.C.C.P., Part II. That article required officers  
29 collecting jury fees to pay the fees to the "county  
30 treasurer of the county where the conviction was had."  
31 Article 1077 is omitted as unnecessary because Article  
32 103.004 of the revised title requires an officer  
33 collecting money under the revised title to deposit it  
34 into the county treasury. Article 1077 read as  
35 follows:

36 Art. 1077. A jury fee shall be  
37 collected as other costs in a case, and the  
38 officer collecting it shall forthwith pay  
39 it to the county treasurer of the county  
40 where the conviction was had.



1 was tried shall certify the correctness of the account and send the  
2 account to the county judge of the county in which the defendant  
3 was indicted. The county in which the defendant was indicted shall  
4 pay the account in the same manner required for payment of the  
5 expenses of transferred prisoners under Article 104.002. (Arts.  
6 1038, 1039, 1050, 1051, 1059, 1060, V.T.C.C.P., Part II.)

7 Source Law

8 Art. 1038. The Sheriff of each County shall,  
9 with the approval of the Commissioners Court, provide  
10 food and lodging for jurors empaneled in a felony case  
11 and jurors so empaneled shall be paid as other jurors  
12 are paid, in addition to such food and lodging.

13 Art. 1039. A juror may pay his own expenses and  
14 draw his script; but the county is responsible in the  
15 first place for all expense incurred by the sheriff in  
16 providing suitable food and lodging for the jury, not  
17 to exceed two dollars a day.

18 Art. 1050. In all causes where indictments have  
19 been presented against persons in one county and such  
20 causes have been removed by change of venue to another  
21 county, and tried therein, the county from which such  
22 cause is removed shall be liable for all expenses  
23 incurred for pay for jurors in trying such causes.

24 Art. 1051. The county commissioners of each  
25 county at each regular meeting shall ascertain whether,  
26 since the last regular meeting, any person has been  
27 tried for crime upon a change of venue from any other  
28 county. If they find such to be the case they shall  
29 make out an account against such county from which such  
30 cause was removed showing the number of days the jury  
31 in such case was employed therein, and setting forth  
32 the amount paid for such jury service; such account  
33 shall then be certified to as correct by the county  
34 judge of such county, under his hand and seal, and be,  
35 by him, forwarded to the county judge of the county  
36 from which the said cause was removed; which account  
37 shall be paid in the same manner as accounts for the  
38 safe keeping of prisoners.

39 Art. 1059. The amount due jurors and bailiffs  
40 shall be paid by the county treasurer, upon the  
41 certificate of the proper clerk or the justice of the  
42 peace, stating the service, when and by whom rendered,  
43 and the amount due therefor.

44 Art. 1060. Drafts drawn and certificates issued  
45 under the provisions of this chapter may be transferred  
46 by delivery, and shall without further action or  
47 acceptance by any authority, except registration by the  
48 county treasurer, be receivable from the holder thereof  
49 at par for all county taxes.

1 Revisor's Note

2 (1) V.A.C.S. Article 2122 authorizes the  
3 commissioners court of a county to set jury pay in both  
4 criminal cases and civil cases tried in the county.  
5 The revised law notes that fact.

6 (2) The revised law omits that part of Article  
7 1039, V.T.C.C.P., Part II, that requires the county to  
8 reimburse the sheriff for jurors' expenses in an amount  
9 not to exceed \$2 a day. Jurors' expenses are an  
10 expense of the office of sheriff, and for the reasons  
11 cited in Subdivision (8) of the revisor's note at the  
12 end of this chapter, the commissioners court is  
13 authorized to establish the amount of this expense.

14 (3) The revised law omits the phrase "under his  
15 hand and seal" from Article 1051, V.T.C.C.P., Part II,  
16 because the requirement that the account be certified  
17 is substantially the same.

18 (4) The revised law omits that part of Article  
19 1059, V.T.C.C.P., Part II, that authorizes the county  
20 treasurer to issue certificates of pay to bailiffs.  
21 The reference to bailiffs is meaningless since the  
22 other articles in this chapter relating to compensation  
23 of bailiffs have been repealed. See the revisor's note  
24 at the end of this chapter.

25 Revised Law

26 Art. 104.002. EXPENSES FOR PRISONERS. (a) Except as  
27 otherwise provided by this article, a county is liable for all  
28 expenses incurred in the safekeeping of prisoners confined in the  
29 county jail or kept under guard by the county. If a prisoner is  
30 transferred to a county from another county on a change of venue,  
31 for safekeeping, or for a habeas corpus hearing, the county

1 transferring the prisoner is liable for the expenses described by  
2 this article.

3 (b) If a county incurs expenses for the safekeeping of a  
4 prisoner from another county, the sheriff shall submit to the  
5 county judge an account of expenses incurred by the county for the  
6 prisoner. The county judge shall approve the amount he determines  
7 is a correct statement of the expenses and sign and date the  
8 account.

9 (c) The county judge shall submit to the commissioners court  
10 of the county for which the prisoner was kept, at a regular term of  
11 the court, his signed statement of the account described by  
12 Subsection (b). If the commissioners court determines that the  
13 account is in accordance with the law, it shall order the county  
14 treasurer to issue to the sheriff of the county submitting the  
15 statement a draft in an amount approved by the court. (Arts. 1037,  
16 1048, 1049, V.T.C.C.P., Part II.)

17 Source Law

18 Art. 1037. Each county shall be liable for all  
19 expense incurred on account of the safe keeping of  
20 prisoners confined in jail or kept under guard, except  
21 prisoners brought from another county for safe keeping,  
22 or on habeas corpus or change of venue; in which cases,  
23 the county from which the prisoner is brought shall be  
24 liable for the expense of his safe keeping.

25 Art. 1048. If the expenses incurred are for the  
26 safe-keeping and maintenance of a prisoner from another  
27 county, the sheriff shall make out a separate account  
28 therefor, and submit the same to the county judge of  
29 his county, who shall carefully examine the same, write  
30 thereon his approval for such amount as he finds  
31 correct and sign and date such approval officially.

32 Art. 1049. The account mentioned in the  
33 preceding article shall then be presented to the  
34 commissioners court of the county liable for the same,  
35 at a regular term of such court; and such court shall,  
36 if the charges therein be in accordance with law, order  
37 a draft issued to the sheriff upon the county treasurer  
38 for the amount allowed.

1 Revisor's Note  
2 (End of Chapter)

3 (1) The revised law omits Article 1018,  
4 V.T.C.C.P., Part II, because it was impliedly repealed  
5 by V.A.C.S. Article 3912e. Article 1018 requires the  
6 state to pay fees to district attorneys, criminal  
7 district attorneys, county attorneys, county judges,  
8 justices of the peace, sheriffs, and constables for  
9 services performed in felony cases under Articles  
10 1020-1035, V.T.C.C.P., Part II. The article also makes  
11 the defendant liable for the fees paid by the state.  
12 Article 3912e expressly states that neither the state  
13 nor a county may pay a fee or commission to a district  
14 or county officer compensated on a salary basis.  
15 Article XVI, Section 61, of the Texas Constitution  
16 requires district and criminal district attorneys and  
17 other district officers, justices of the peace,  
18 sheriffs, and constables to be paid on a salary basis.  
19 V.A.C.S. Article 3912k requires county attorneys to be  
20 paid on a salary basis. County judges are paid on a  
21 salary basis. Since all officers listed in Articles  
22 1020-1035 of the cited criminal procedure articles are  
23 prohibited from receiving fees from the state, the  
24 provision in Article 1018 requiring that the fees paid  
25 by the state are a charge against the defendant is  
26 meaningless. The omitted article reads as follows:

27 Art. 1018. When the defendant is  
28 convicted, the costs and fees paid by the  
29 State under this title shall be a charge  
30 against him, except when sentenced to death  
31 or to imprisonment for life, and when  
32 collected shall be paid into the State  
33 Treasury.

34 (2) The revised law omits Articles 1019 and  
35 1019a, V.T.C.C.P., Part II. Article 1019 established

1 cases where officers who would otherwise receive fees  
2 from the state for services in criminal cases would  
3 instead receive those fees from the county. For the  
4 reasons cited in Subdivision (1) of this revisor's  
5 note, both the state and counties are prohibited from  
6 paying fees to officers. Therefore, Article 1019 is  
7 omitted as meaningless.

8 Article 1019a prohibits officers from collecting  
9 fees from the state for services performed in multiple  
10 prosecutions against the defendant. Since officers may  
11 not collect any fees from the state, Article 1019a is  
12 omitted as meaningless.

13 The omitted articles read as follows:

14 Art. 1019. If the defendant is  
15 indicted for a felony and upon conviction  
16 his punishment is by fine or confinement in  
17 the county jail, or by both such fine and  
18 confinement in the county jail or convicted  
19 of a misdemeanor, no costs shall be paid by  
20 the State to any officer. All costs in  
21 such cases shall be taxed, assessed and  
22 collected as in misdemeanor cases.

23 Art. 1019a. In all felony cases  
24 where any officer is allowed fees payable  
25 by the State for services performed either  
26 before or after indictment, including  
27 examining trials before magistrates and  
28 habeas corpus proceedings, no officer shall  
29 be entitled to fees in more than five cases  
30 against the same defendant; provided,  
31 however, that where defendants are indicted  
32 and tried separately after severance of  
33 their cases, said officers shall be  
34 entitled to fees in five cases against each  
35 of said defendants, the same as if indicted  
36 and tried separately for separate offenses;  
37 provided further, that cases in which the  
38 same defendant has previously been  
39 indicted, tried, and convicted prior to the  
40 date of any act or acts for which said  
41 defendant is again apprehended, indicted,  
42 and/or tried shall not be computed in  
43 determining the number of cases against  
44 such defendant in which such officers are  
45 entitled to collect fees.

46 (3) The revised law omits Article 1020,  
47 V.T.C.C.P., Part II. Article 1020 requires the state

1 to pay fees for services performed in examining trials  
2 in felony cases by county judges, justices of the  
3 peace, sheriffs, and district and county attorneys.  
4 For the reasons cited in Subdivision (1) of this  
5 revisor's note, the state is prohibited from paying  
6 fees to the named officers. The omitted article reads  
7 as follows:

8 Art. 1020. In each case where a  
9 County Judge or a Justice of the Peace  
10 shall sit as an examining court in a felony  
11 case, they shall be entitled to the same  
12 fees allowed by law for similar services in  
13 misdemeanor cases to Justices of the Peace,  
14 and ten cents for each one hundred words  
15 for writing down the testimony, to be paid  
16 by the State, not to exceed Three and  
17 No/100 (\$3.00) Dollars, for all his  
18 services in any one case.

19 Sheriffs and Constables serving  
20 process and attending any examining court  
21 in the examination of any felony case,  
22 shall be entitled to such fees as are fixed  
23 by law for similar services in misdemeanor  
24 cases in County Court to be paid by the  
25 State, not to exceed Four and No/100  
26 (\$4.00) Dollars in any one case, and  
27 mileage actually and necessarily traveled  
28 in going to the place of arrest, and for  
29 conveying the prisoner or prisoners to jail  
30 as provided in Articles 1029 and 1030, Code  
31 of Criminal Procedure, as the facts may be,  
32 but no mileage whatever shall be paid for  
33 summoning or attaching witnesses in the  
34 county where case is pending. Provided no  
35 sheriff or constable shall receive from the  
36 State any additional mileage for any  
37 subsequent arrest of a defendant in the  
38 same case, or in any other case in an  
39 examining court or in any district court  
40 based upon the same charge or upon the same  
41 criminal act, or growing out of the same  
42 criminal transaction, whether the arrest is  
43 made with or without a warrant, or before  
44 or after indictment, and in no event shall  
45 he be allowed to duplicate his fees for  
46 mileage for making arrests, with or without  
47 warrant, or when two or more warrants of  
48 arrest or capiases are served or could have  
49 been served on the same defendant on any  
50 one day.

51 District and County Attorneys, for  
52 attending and prosecuting any felony case  
53 before an examining court, shall be  
54 entitled to a fee of Five and no/100  
55 (\$5.00) Dollars, to be paid by the State  
56 for each case prosecuted by him before such

1 court. Such fee shall not be paid except  
2 in cases where the testimony of the  
3 material witnesses to the transaction shall  
4 be reduced to writing, subscribed and sworn  
5 to by said witnesses; and provided further  
6 that such written testimony of all material  
7 witnesses to the transaction shall be  
8 delivered to the District Clerk under seal,  
9 who shall deliver the same to the foreman  
10 of the grand jury and take his receipt  
11 therefor. Such foreman shall, on or before  
12 the adjournment of the grand jury, return  
13 the same to the clerk who shall receipt him  
14 and shall keep said testimony in the files  
15 of his office for a period of five years.

16 The fees mentioned in this Article  
17 shall become due and payable only after the  
18 indictment of the defendant for an offense  
19 based upon or growing out of the charge  
20 filed in the examining court and upon an  
21 itemized account, sworn to by the officers  
22 claiming such fees, approved by the Judge  
23 of the District Court, and said County or  
24 District Attorney shall present to the  
25 District Judge the testimony transcribed in  
26 the examining trial, who shall examine the  
27 same and certify that he has done so and  
28 that he finds the testimony of one or more  
29 witnesses to be material; and provided  
30 further that a certificate from the  
31 District Clerk, showing that the written  
32 testimony of the material witnesses has  
33 been filed with said District Clerk, in  
34 accordance with the preceding paragraph,  
35 shall be attached to said account before  
36 such District or County Attorney shall be  
37 entitled to a fee in any felony case for  
38 services performed before an examining  
39 court.

40 Only one fee shall be allowed to any  
41 officer mentioned herein for services  
42 rendered in an examining trial, though more  
43 than one defendant is joined in the  
44 complaint, or a severance is had. When  
45 defendants are proceeded against  
46 separately, who could have been proceeded  
47 against jointly, but one fee shall be  
48 allowed in all cases that could have been  
49 so joined. No more than one fee shall be  
50 allowed to any officer where more than one  
51 case is filed against the same defendant  
52 for offenses growing out of the same  
53 criminal act or transaction. The account  
54 of the officer and the approval of the  
55 District Judge must affirmatively show that  
56 the provisions of this Article have been  
57 complied with.

58 (4) The revised law omits Articles 1021, 1022,  
59 1023, 1024 and 1025, V.T.C.C.P., Part II. The cited  
60 criminal procedure articles provide compensation for

1 district and criminal district attorneys on the basis  
2 of a yearly salary and fees for court appearances and  
3 convictions. Additionally, Article 1023 provides a fee  
4 for county attorneys who prosecute antitrust cases.  
5 For the reasons cited in Subdivision (1) of this  
6 revisor's note, the state is prohibited from paying  
7 fees to the named officers. The omitted articles read  
8 as follows:

9 Art. 1021. District Attorneys in all  
10 judicial districts composed of two counties  
11 or more, shall receive from the State as  
12 pay for their services the sum of \$500.00  
13 per annum, and in addition thereto, shall  
14 receive from the State as pay for their  
15 services, the sum of \$20.00 for each day  
16 they attend the Session of the District  
17 Court in their respective districts in the  
18 necessary discharge of their official  
19 duties, and \$20.00 for each day used in  
20 necessarily going to and coming from the  
21 District Court in one county to the  
22 District Court in another county in their  
23 respective districts in the necessary  
24 discharge of their official duties, and in  
25 attending any Session of said Court; and  
26 \$20.00 per day for each day they represent  
27 the State at examining trials, inquest  
28 proceedings and habeas corpus proceedings  
29 in vacation; said \$20.00 per day to be paid  
30 upon the sworn account of the District  
31 Attorney, approved by the District Judge,  
32 who shall certify that the attendance of  
33 said District Court for the number of days  
34 mentioned in his account was necessary,  
35 after which said account shall be recorded  
36 in the Minutes of the District Court;  
37 provided that the maximum number of days  
38 for which compensation is allowed shall not  
39 exceed one hundred and seventy-five days in  
40 any one year. All commissions and fees  
41 allowed District Attorneys under the  
42 provisions hereof, in the districts  
43 composed of two or more counties, shall,  
44 when collected, be paid to the District  
45 Clerk of the County of his residence, who  
46 shall pay the same over to the State  
47 Treasurer.

48 Art. 1022. If there be more than one  
49 defendant in a case, and they are tried  
50 jointly, but one fee shall be allowed the  
51 district or county attorney. If the  
52 defendants sever, and are tried separately,  
53 a fee shall be allowed for each final  
54 conviction, except in habeas corpus cases,  
55 in which cases only one fee shall be

1 allowed, without regard to the number of  
2 defendants or whether they are tried  
3 jointly or separately.

4 Art. 1023. For every conviction  
5 obtained under the provisions of the  
6 anti-trust laws, the State shall pay to the  
7 county or district attorney in such  
8 prosecution the sum of two hundred and  
9 fifty dollars. If both the county and  
10 district attorney shall serve together in  
11 such prosecution, such fee shall be divided  
12 between them as follows: One hundred  
13 dollars to the county attorney, and one  
14 hundred and fifty dollars to the district  
15 attorney.

16 Art. 1024. In addition to the fees  
17 allowed by law to other district attorneys  
18 for other services, the Criminal District  
19 Attorney of Dallas county and the Criminal  
20 District Attorney of Harris county shall  
21 each receive the following fees:

22 For all convictions of felony when  
23 the defendant does not appeal or dies or  
24 escapes after appeal and before final  
25 judgment of the appellate court, or when  
26 the judgment is affirmed on appeal, thirty  
27 dollars for each felony other than  
28 felonious homicide, and forty dollars for  
29 each such homicide. For representing the  
30 State in each case of habeas corpus where  
31 the applicant is charged with felony,  
32 twenty dollars.

33 Art. 1025. In each county where  
34 there have been cast at the preceding  
35 presidential election 3000 votes or over,  
36 the district or county attorney shall  
37 receive the following fees:

38 For all convictions of felony when  
39 the defendant does not appeal, or dies or  
40 escapes after appeal and before final  
41 judgment of the appellate court, or when  
42 the judgment is affirmed on appeal,  
43 twenty-four dollars for each felony other  
44 than felonious homicide, and forty dollars  
45 for each such homicide.

46 For representing the State in each  
47 case of habeas corpus where the applicant  
48 is charged with felony, sixteen dollars.

49 In each county where less than 3000  
50 such votes have been so cast, such attorney  
51 shall receive thirty dollars for each such  
52 conviction of felony other than homicide,  
53 and fifty dollars for each such conviction  
54 of felonious homicide, and twenty dollars  
55 for each such habeas corpus case.

56 (5) The revised law omits Article 1026,  
57 V.T.C.C.P., Part II. Article 1026 requires the state  
58 to pay district clerks and criminal district clerks for  
59 services performed in criminal cases. For the reasons

1 stated in Subdivision (1) of this revisor's note, the  
2 state is prohibited from paying fees to the named  
3 officers. The omitted article reads as follows:

4 Art. 1026. In each county where  
5 there have been cast at the preceding  
6 presidential election 3000 votes or over,  
7 the district clerk or criminal district  
8 clerk shall receive the following fees:  
9 Eight dollars for each felony case finally  
10 disposed of without trial or dismissed, or  
11 tried by jury whether the defendant be  
12 acquitted or convicted; eight cents for  
13 each one hundred words in each transcript  
14 on appeal or change of venue; eighty cents  
15 for entering judgment in habeas corpus  
16 cases, and eight cents for each one hundred  
17 words for preparing transcript in habeas  
18 corpus cases. In no event shall the fees  
19 in habeas corpus cases exceed eight dollars  
20 in any one case. In each county where less  
21 than 3000 votes have been so cast, such  
22 clerk shall receive ten dollars for each  
23 felony case so disposed of, and ten cents  
24 for each one hundred words in such  
25 transcripts, and one dollar for entering  
26 judgment in each habeas corpus. The  
27 district clerk of any county shall receive  
28 fifty cents for recording each account of  
29 the sheriff.

30 (6) The revised law omits Articles 1027 and  
31 1028, V.T.C.C.P., Part II. The cited articles  
32 establish the time at which the state is required to  
33 pay fees to officers for services in criminal cases.  
34 In that this revised title omits the articles requiring  
35 the state to pay fees to officers, Articles 1027 and  
36 1028 are omitted as meaningless. The omitted articles  
37 read as follows:

38 Art. 1027. In all cases where a  
39 defendant is indicted for a felony but  
40 under the indictment he may be convicted of  
41 a misdemeanor or a felony, and the  
42 punishment which may be assessed is a fine,  
43 jail sentence or both such fine and  
44 imprisonment in jail, the State shall pay  
45 no fees to any officer, except where the  
46 defendant is indicted for the offense of  
47 murder, until the case has been finally  
48 disposed of in the trial court. Provided  
49 the provisions of this Article shall not be  
50 construed as affecting in any way the  
51 provisions of Article 1019, Code of

1 Criminal Procedure, as amended by Chapter  
2 205, General Laws, Regular Session,  
3 Forty-second Legislature; Provided this  
4 shall not apply to examining trial fees to  
5 County Attorneys and/or Criminal District  
6 Attorneys.

7 Art. 1028. All fees accruing under  
8 the two succeeding articles shall be due  
9 and payable at the close of each term of  
10 the district court, after being duly  
11 approved, except as provided for in  
12 subdivisions 7 and 8 of said articles,  
13 which shall be paid when approved by the  
14 judge under whose order the writ was  
15 issued.

16 (7) The revised law omits Articles 1029, 1030,  
17 1030a, 1031, and 1032, V.T.C.C.P., Part II. The cited  
18 articles require the state to pay fees to sheriffs,  
19 constables, and other peace officers for services  
20 performed in criminal cases. For the reasons cited in  
21 Subdivision (1) of this revisor's note, the state is  
22 prohibited from paying fees to the named officers.  
23 Additionally, the revised law omits Articles 1033,  
24 1034, and 1035, V.T.C.C.P., Part II, because the  
25 articles establish procedures whereby sheriffs,  
26 constables, and other peace officers prove up fees and  
27 receive payments from the state. Since the officers  
28 are prohibited from receiving fees, these articles are  
29 meaningless. The omitted articles read as follows:

30 Art. 1029. In each county where  
31 there have been cast at the preceding  
32 presidential election 3000 votes or more,  
33 the sheriff and constable shall receive the  
34 following fees:

35 1. For executing each warrant of  
36 arrest or capias, for making arrest without  
37 warrant when so authorized by law, the sum  
38 of one dollar, and in all cases five cents  
39 per mile for each mile actually and  
40 necessarily traveled in going to the place  
41 of arrest; and for conveying each prisoner  
42 to jail, he shall receive the mileage  
43 provided in subdivision 4.

44 2. For summoning or attaching each  
45 witness, fifty cents.

46 3. For summoning a jury in each case  
47 where a jury is actually sworn in, two  
48 dollars.

1                   4. For removing or conveying  
2 prisoners, for each mile going and coming,  
3 including guards and all other necessary  
4 expenses, when traveling by railroad, ten  
5 cents. When traveling otherwise than by  
6 railroad, fourteen cents; provided that  
7 where more than one prisoner is so conveyed  
8 or removed at the same time, in addition to  
9 the foregoing, he shall be allowed eight  
10 cents per mile for each additional  
11 prisoner.

12                   5. For each mile the officer may be  
13 compelled to travel in executing criminal  
14 process, summoning or attaching witnesses,  
15 five cents; provided that in no case shall  
16 he be allowed to duplicate his mileage when  
17 two or more witnesses are named in the same  
18 or different writs in any case or series of  
19 cases against the same defendant, or in  
20 companion cases, or otherwise; when it is  
21 possible to serve process on them in the  
22 same neighborhood or vicinity during the  
23 same trip, he shall not charge mileage for  
24 serving such witnesses to or from the  
25 County seat, but shall charge only one  
26 mileage and for such additional miles only  
27 as are actually and necessarily travelled  
28 in summoning each additional witness.

29                   6. For service of criminal process,  
30 not otherwise provided for, the sum of five  
31 cents a mile going and returning shall be  
32 allowed. If two or more persons are  
33 mentioned in the same or different writs,  
34 the rule prescribed in subdivision 5 shall  
35 apply.

36                   7. For conveying witnesses attached  
37 by him to any court, or in habeas corpus  
38 proceedings out of his county, or when  
39 directed by the judge from any other county  
40 to the court where the case is pending, one  
41 dollar and fifty cents per day for each day  
42 actually and necessarily consumed in going  
43 to and returning from such courts, and his  
44 actual and necessary expenses by the  
45 nearest practical route, or nearest  
46 practical public conveyance, the amount to  
47 be stated by him in an account which shall  
48 show the place where the witnesses were  
49 attached, the distance to the nearest  
50 railroad station, and miles actually  
51 traveled to each court; if horses or  
52 vehicles are used, from whom hired and  
53 price paid and length of time consumed and  
54 paid out for feeding horses, and to whom;  
55 if meals and lodgings are provided from  
56 whom and when, and price paid; provided  
57 that officers shall not be entitled to  
58 receive exceeding fifty cents per meal, and  
59 thirty-five cents per night for lodging for  
60 any witness. No item for expenses shall be  
61 allowed, unless the officer present with  
62 his account to the officer whose duty it is  
63 to approve the same, a written receipt for

1 each item of account, except as to such  
2 items as are furnished by the officer  
3 himself. When meals and lodgings are  
4 furnished by the officer in person,  
5 conveying the witness, he shall be allowed  
6 to receive not exceeding twenty-five cents  
7 per meal, and twenty-five cents per night  
8 for lodging. Each said receipt shall be  
9 filed with the clerk of the court approving  
10 such accounts. Said accounts shall also  
11 show, before said officer shall be entitled  
12 to compensation for expenses of attached  
13 witnesses, that, before starting with said  
14 witnesses to the foreign court, he carried  
15 each of them before the magistrate nearest  
16 place of serving the attachment, giving his  
17 name and residence, and that said witness  
18 made oath in writing before said  
19 magistrate, certified copies of which shall  
20 be attached to the account, that they were  
21 unable to give bond for their appearance at  
22 court, or refused to give bond after having  
23 been advised by said officer of their right  
24 to do so. The officer shall also present  
25 to the court the affidavit of the witness  
26 to the same effect, or shall show that the  
27 witness refused to make the affidavit; and  
28 should it appear to the court that the  
29 witness is willing and able to give bond,  
30 the sheriff shall not be entitled to any  
31 compensation for conveying such witness.  
32 All accounts for fees in criminal cases, by  
33 sheriffs, shall be sworn to by the said  
34 officer, and shall state that said account  
35 is true, just and correct in every  
36 particular, and be presented to the judge,  
37 who shall during such term of court,  
38 carefully examine such account and, if  
39 found to be correct, in whole or in part,  
40 shall so certify and allow the same for  
41 such amount as he may find to be correct.  
42 If allowed by him in whole or in part, he  
43 shall so certify; and such account, with  
44 the affidavit of the sheriff, and  
45 certificate of the judge, shall be recorded  
46 by the district clerk in a book kept by him  
47 for that purpose, which shall constitute a  
48 part of the proceedings or minutes of the  
49 court. The clerk shall certify to the  
50 original account, and shall show that the  
51 same has been recorded, and said account  
52 shall then become due, and the same shall  
53 constitute a voucher on which the  
54 Comptroller is authorized to issue a  
55 warrant, if such account, when presented to  
56 the Comptroller, shall be accompanied by a  
57 certified copy under the hand and seal of  
58 the district clerk, of the returns made on  
59 the process for which such officer is  
60 claiming fees, corresponding to the amount  
61 so claimed in his account. The minutes of  
62 the court above provided for, or a  
63 certified copy thereof, may be used in

1 evidence against the officer making the  
2 affidavit, for perjury, in case said  
3 affidavit shall be wilfully false. When  
4 the officer receiving the writ for the  
5 attachment of such a witness shall take  
6 bond for the appearance of such witness, he  
7 shall be entitled to receive from the State  
8 one dollar for each bond so taken; but he  
9 shall be responsible to the court issuing  
10 said writ, that the said bond is in proper  
11 form, and has been executed by the witness  
12 with one or more good and solvent sureties;  
13 and said bond shall in no case be less than  
14 one hundred dollars. The Comptroller may  
15 require from such officer a certified copy  
16 of all such process before auditing any  
17 account. When no inquest or examining  
18 trial has been held at which sufficient  
19 evidence is taken upon which to find an  
20 indictment, which fact shall be certified  
21 by the grand jury, or when the grand jury  
22 shall state to the district judge that an  
23 indictment cannot be procured except upon  
24 testimony of nonresident witnesses, the  
25 district judge may have attachments issued  
26 to other counties for witnesses not to  
27 exceed the number for which the sheriff may  
28 receive pay as provided for by law, to  
29 testify before grand juries; provided, that  
30 the judge shall not approve the accounts of  
31 any sheriff for more than one witness to  
32 any one fact, nor more than three witnesses  
33 to any one case pending before the grand  
34 jury, in which case the sheriff shall  
35 receive the same compensation as he does  
36 for conveying attached witnesses before the  
37 court. Subdivision 7 of this article shall  
38 apply to the officers affected thereby in  
39 all counties in Texas.

40 8. For attending a prisoner on  
41 habeas corpus, for each day, four dollars,  
42 together with mileage as provided in  
43 subdivision 4 when removing such prisoner  
44 out of the county, under an order issued by  
45 a district or appellate judge.

46 Art. 1030. In each county where  
47 there have been cast at the preceding  
48 presidential election less than 3000 votes,  
49 the sheriff or constable shall receive the  
50 following fees when the charge is a felony:

51 1. For executing each warrant of  
52 arrest or *capias*, or for making arrest  
53 without warrant, when authorized by law,  
54 the sum of one dollar; and five cents for  
55 each mile actually and necessarily traveled  
56 in going to place of arrest, and for  
57 conveying the prisoner or prisoners to  
58 jail, mileage, as provided for in  
59 subdivision 4 shall be allowed; provided,  
60 that in counties that have a population of  
61 less than forty thousand inhabitants, as  
62 shown by the preceding Federal census, the  
63 following fees shall apply: For executing

1 each warrant of arrest or capias, or for  
2 making arrest without warrant, when  
3 authorized by law, three dollars and  
4 fifteen cents for each mile actually and  
5 necessarily traveled in going to place of  
6 arrest, and for conveying prisoners to  
7 jail, mileage as provided for in  
8 subdivision 4 shall be allowed; and one  
9 dollar shall be allowed for the approval of  
10 a bond.

11 2. For summoning or attaching each  
12 witness, fifty cents; provided that in  
13 counties that have a population of less  
14 than forty thousand inhabitants, as shown  
15 by the preceding Federal census, the  
16 following fees shall apply: For summoning  
17 or attaching each witness, fifty cents, and  
18 where a bond is required of said witness,  
19 for the approval of said bond, one dollar.

20 3. For summoning jury in each case,  
21 where jury is actually sworn in, two  
22 dollars.

23 4. For removing a prisoner, for each  
24 mile going and coming, including guards and  
25 all other expenses, when traveling by  
26 railroad, ten cents; when traveling  
27 otherwise than by railroad, fifteen cents;  
28 provided, that when more than one prisoner  
29 is removed at the same time, in addition to  
30 the foregoing, he shall only be allowed ten  
31 cents a mile for each additional prisoner.

32 5. For each mile the officer may be  
33 compelled to travel in executing criminal  
34 process, summoning or attaching witnesses,  
35 five cents; provided that in no case shall  
36 he be allowed to duplicate his mileage when  
37 two or more witnesses are named in the same  
38 or different writs in any case, and he  
39 shall serve process on them in the same  
40 vicinity or neighborhood, during the same  
41 trip; he shall not charge mileage for  
42 serving such witness to and from the county  
43 seat, but shall only charge one mileage and  
44 for such additional miles only as are  
45 actually and necessarily traveled in  
46 summoning or attaching each additional  
47 witness. When process is sent by mail to  
48 any officer away from the county seat or  
49 returned by mail by such officer, he shall  
50 only be allowed to charge mileage for the  
51 miles actually traveled by him in executing  
52 such process, and the return of the officer  
53 shall show the character of the service and  
54 miles actually traveled in accordance with  
55 this subdivision; and his accounts shall  
56 show the facts; provided, that in counties  
57 that have a population of less than forty  
58 thousand inhabitants, as shown by the  
59 preceding Federal census, the following  
60 fees shall apply: For each mile the  
61 officer may be compelled to travel in  
62 executing criminal process, summoning or  
63 attaching witnesses, ten cents; provided,

1 that in no case shall he be allowed to  
2 duplicate his mileage when two or more  
3 witnesses are named in the same or  
4 different writs in any case and he shall  
5 serve process on them in the same vicinity  
6 or neighborhood, during the same trip, he  
7 shall not charge mileage for serving such  
8 witness to and from the county seat, but  
9 shall only charge one mileage, and for such  
10 additional miles only as are actually and  
11 necessarily traveled in summoning or  
12 attaching each additional witness. When  
13 process is sent by mail to any officer away  
14 from the county seat or returned by mail by  
15 such officer, he shall only be allowed to  
16 charge mileage for the miles actually  
17 traveled by him in executing such process,  
18 and the return of the officer shall show  
19 the character of the service in the miles  
20 actually traveled in accordance with this  
21 subdivision; and his accounts shall show  
22 the facts.

23 6. To officers for service of  
24 criminal process not otherwise provided  
25 for, the sum of five cents a mile going and  
26 returning, shall be allowed; provided, if  
27 two or more persons are mentioned in the  
28 same or different writs, the rules  
29 prescribed in subdivision 5 shall apply;  
30 provided, that in counties that have a  
31 population of less than forty thousand  
32 inhabitants, as shown by the preceding  
33 Federal census, the following fees shall  
34 apply: To officers for service of criminal  
35 process not otherwise provided for, the sum  
36 of ten cents a mile going and returning  
37 shall be allowed; provided, if two or more  
38 persons are mentioned in the same or  
39 different writs, the rule prescribed in  
40 subdivision 5 shall apply.

41 7. For conveying a witness attached  
42 by him to any court, or grand jury, or in  
43 habeas corpus proceeding out of his county,  
44 or when directed by the judge from any  
45 other county, to the court where the case  
46 is pending, one dollar per day for each day  
47 actually and necessarily consumed in going  
48 and returning from such court, and his  
49 actual necessary expenses, by the nearest  
50 practicable route or nearest practicable  
51 public conveyance, the amount to be stated  
52 by him in an account, which shall show the  
53 place at which the witness was attached,  
54 the distance to the nearest railroad  
55 station, and miles actually traveled to  
56 reach the court; if horses or vehicles are  
57 used, from whom hired, and price paid, and  
58 length of time consumed, and the amount  
59 paid out for feeding horses, and to whom;  
60 if meals and lodging were provided, from  
61 whom and when and price paid; provided,  
62 that officers shall not be entitled to  
63 receive exceeding fifty cents per meal, and

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thirty-five cents per night for lodging for any witness. Said account shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that, before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his name and residence, and that said witness made oath in writing before such magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. The officer shall also present to the court the affidavit of the witness to the same effect or shall show that the witness refused to make the affidavit and, should it appear to the court that the witness was able and willing to give bond the sheriff shall not be entitled to any compensation for conveying such witness; and said account shall be sworn to by the officer, and shall state that said account is true, just and correct in every particular, and present same to the judge, who shall, during such term of court, carefully examine such account, and, if found to be correct, in whole or in part, shall so certify, and allow the same for such an amount as he may find to be correct; and, if by him allowed, in whole or in part, he shall so certify; and such account with the affidavit of the sheriff, and certificate of the judge, shall be recorded by the district clerk in a book to be kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court; and the clerk shall certify to the original account and shall show that the same has been so recorded; and said account shall then become due, and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant; and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving a writ for the attachment of such witness shall take a bond for the appearance of any such witness he shall be entitled to receive from the State, one dollar for each bond so taken; but he shall be responsible to the court issuing said writ, that said bond is in proper form, and has been executed by the witness with one or more good or solvent securities; and said bond shall, in no case, be less than one hundred dollars. The Comptroller may require from such officer a certified copy of all such

1 process before auditing any such account.

2 8. For attending a prisoner on  
3 habeas corpus, for each day, four dollars,  
4 together with mileage as provided in  
5 subdivision 5, when removing such prisoner  
6 out of the county under an order issued by  
7 a district or appellate judge.

8 Art. 1030a

9 Sec. 1. Every sheriff, or deputy  
10 sheriff, in any county of this State, who  
11 shall hereafter arrest, or cause to be  
12 arrested, any person, or persons indicted  
13 for a criminal offense of the grade of a  
14 felony, in the county where such officer is  
15 the duly acting sheriff, or deputy sheriff,  
16 shall be paid the sum of five cents (5¢)  
17 per mile from the state line and return  
18 thereto, along the nearest practicable  
19 route, to the point where such person or  
20 persons has been, or will be, placed under  
21 arrest, and in addition thereto, such  
22 officer, or officers, shall be paid, not to  
23 exceed Five Dollars (\$5) per day, per  
24 person, for hotel bills, meals and other  
25 expenses necessarily contracted in the  
26 performance of such official duty.

27 Sec. 2. The Comptroller of Public  
28 Accounts of the State of Texas is  
29 authorized and directed to pay, out of any  
30 fund or funds, provided for such purpose,  
31 upon the presentment of a duly itemized and  
32 verified mileage, per diem and expense  
33 account of any such officer, approved by  
34 the District Judge of the District where  
35 such official duty was performed as  
36 provided in the preceding Section, all of  
37 such account due, provided that only one  
38 (1) claim for mileage shall be paid for any  
39 such trip, and further providing that not  
40 more than two (2) such officers shall draw  
41 per diem and expense accounts for one (1)  
42 of such trips.

43 Sec. 3. In the event the  
44 Comptroller of Public Accounts of the State  
45 of Texas certifies that no funds are  
46 available for the payment of such per diem  
47 mileage and expense account, as specified  
48 in the preceding Section, then upon  
49 presentment of such itemized account duly  
50 verified by such officer and approved by  
51 the District Judge of the Judicial District  
52 in which such county is located, the  
53 Commissioners Court is authorized, within  
54 its discretion, to pay out of any fund or  
55 funds not otherwise pledged, such mileage  
56 per diem and expense accounts.

57 Sec. 4. It is further specifically  
58 provided that if the county of the sheriff  
59 or deputy sheriff making said trip is  
60 operating on a fee basis and no State funds  
61 are available, then and in that event, the  
62 Commissioners Court is authorized, within  
63 its discretion, to pay out of any available

1 funds the mileage and per diem not in  
2 excess of the amounts stated in Section 1  
3 of this Act, to said sheriff or deputy  
4 sheriff from the county seat to the state  
5 line and return.

6 Sec. 5. The compensation herein  
7 provided for the sheriff or any deputy  
8 sheriff of the county shall be allowable to  
9 such officer as expenses of office, and  
10 shall not be included in his compensation,  
11 and/or salary paid him, as now authorized  
12 by law.

13 Sec. 6. The provisions of this Act  
14 shall be severable, and if any section,  
15 subsection, sentence, clause or word of the  
16 same shall be held unconstitutional, or  
17 invalid for any reason, the same shall not  
18 be construed to affect the validity of any  
19 of the remaining provisions of this Act.  
20 It is hereby declared as the legislative  
21 intent that this Act would have been  
22 adopted, had such invalid provision not  
23 been included therein.

24 Sec. 7. It is not the intention of  
25 the Legislature by the passage of this Act  
26 to repeal any existing law providing for  
27 the reimbursement of traveling expenses and  
28 this Act is cumulative of all other  
29 statutes on this subject.

30 Art. 1031. When services have been  
31 rendered by any peace officer other than a  
32 sheriff, such as are enumerated in the two  
33 preceding articles, such officer shall  
34 receive the same fees therefor as are  
35 allowed the sheriff. The same shall be  
36 taxed in the sheriff's bill of costs, and  
37 noted therein as costs due such peace  
38 officer; and when received by such sheriff,  
39 he shall pay the same to such peace  
40 officer.

41 Art. 1032. A sheriff shall not  
42 charge fees for arrests made by rangers, or  
43 mileage for prisoners transported by  
44 rangers, or mileage or other fees for  
45 transporting a witness under attachment  
46 issued from another county, unless such  
47 witness refuses to give bail for his  
48 appearance, or files an affidavit with such  
49 sheriff of his inability to give bail.

50 Art. 1033. Before the close of each  
51 term of the district court, the district or  
52 county attorney, sheriff and clerk of said  
53 court shall each make out a bill of the  
54 costs claimed to be due them by the State,  
55 respectively, in the felony cases tried at  
56 that term; the bill shall show:

- 57 1. The style and number of each  
58 case.
- 59 2. The offense charged against the  
60 defendant.
- 61 3. The term of the court at which  
62 the case was disposed of.
- 63 4. The disposition of the case, and

1 that the case was finally disposed of, and  
2 no appeal taken.

3 5. The name and number of  
4 defendants; and, if more than one, whether  
5 they were tried jointly or separately.

6 6. Where each defendant was  
7 arrested, or witness served, stating the  
8 county in which the service was made,  
9 giving distance and direction from county  
10 seat of county in which the process is  
11 served.

12 7. The court shall inquire whether  
13 there have been several prosecutions for a  
14 transaction that is but one offense in law.  
15 If there is more than one prosecution for  
16 the same transaction, or a portion thereof,  
17 that could have been combined in one  
18 indictment against the same defendant, the  
19 judge shall allow fees to sheriffs, clerks  
20 and district and county attorneys in but  
21 one prosecution.

22 8. Where the defendants in a case  
23 have severed on the trial, the judge shall  
24 not allow the charges for service of  
25 process and mileage to be duplicated in  
26 each case as tried; but only such  
27 additional fees shall be allowed as are  
28 caused by the severance.

29 Art. 1034. The District Judge, when  
30 any such bill is presented to him, shall  
31 examine the same carefully, and inquire  
32 into the correctness thereof, and approve  
33 the same, in whole or in part, or  
34 disapprove the entire bill, as the facts  
35 and law may require; and such approval  
36 shall be conditioned only upon, and subject  
37 to the approval of the State Comptroller as  
38 provided for in Article 1035 of this Code,  
39 and the Judge's approval shall so state  
40 therein; and such bill, with the action of  
41 the Judge thereon, shall be entered on the  
42 minutes of said Court; and immediately on  
43 the rising of said Court, the Clerk thereof  
44 shall make a certified copy from the  
45 minutes of said Court of said bill, and the  
46 action of the Judge thereon, and send same  
47 by registered letter to the Comptroller.  
48 Provided the bill herein referred to shall  
49 before being presented to such District  
50 Judge, be first presented to the County  
51 Auditor, if such there be, who shall  
52 carefully examine and check the same, and  
53 shall make whatever recommendations he  
54 shall think proper to be made to such  
55 District Judge relating to any item or the  
56 whole bill.

57 Fees due District Clerks for  
58 recording sheriff's accounts shall be paid  
59 at the end of said term; and all fees due  
60 District Clerks for making transcripts on  
61 change of venue and on appeal shall be paid  
62 as soon as the service is performed; and  
63 the Clerk's bill for such fees shall not be

1 required to show that the case has been  
2 finally disposed of. Bills for fees for  
3 such transcripts shall be approved by the  
4 District Judge as above provided, and with  
5 the same conditions, and when approved  
6 shall be recorded as part of the minutes of  
7 the last preceding term of the Court.

8 Art. 1035. The Comptroller upon the  
9 receipt of such claim, and said certified  
10 copy of the minutes of said Court, shall  
11 closely and carefully examine the same,  
12 and, if he deems the same to be correct, he  
13 shall draw his warrant on the State  
14 Treasurer for the amount found by him to be  
15 due, and in favor of the officer entitled  
16 to the same. If the appropriation for  
17 paying such accounts is exhausted, the  
18 Comptroller shall file the same away, if  
19 found to be correct, and issue a  
20 certificate in the name of the officer  
21 entitled to the same, stating herein the  
22 amount of the claim and the character of  
23 the services performed. All such claims or  
24 accounts not sent to or placed on file in  
25 the office of the Comptroller within twelve  
26 (12) months from the date the same becomes  
27 due and payable shall be forever barred.

28 (8) The revised law omits Articles 1040, 1041,  
29 1041a, 1041b, and 1042, V.T.C.C.P., Part II, because  
30 they were impliedly repealed by V.A.C.S. Article  
31 3912k. The cited criminal procedure articles  
32 established the amounts a county could pay sheriffs for  
33 office expenses, including expenses for the food,  
34 lodging, and medical expenses of prisoners and the  
35 employment of guards and matrons. Article 3912k  
36 authorizes the commissioners court of each county to  
37 establish the amount of office expenses it will provide  
38 for sheriffs. Additionally, the revised law omits  
39 Articles 1043, 1044, 1045, 1046, and 1047, V.T.C.C.P.,  
40 Part II, because the articles establish the procedure  
41 whereby a sheriff proves up office expenses and  
42 receives payment from the county according to the  
43 statutorily created formula. Since Article 3912k  
44 allows commissioners courts to determine methods of  
45 payment of office expenses, the articles are

1           meaningless.

2           The omitted articles read as follows:

3                     Art. 1040. For the safe keeping,  
4                     support and maintenance of prisoners  
5                     confined in jail or under guard, the  
6                     sheriff shall be allowed the following  
7                     charges:

8                     1. For the safekeep of each prisoner  
9                     for each day the sum of fifteen cents, not  
10                    to exceed the sum of two hundred dollars  
11                    per month.

12                    2. For support and maintenance, for  
13                    each prisoner for each day such an amount  
14                    as may be fixed by the commissioners court,  
15                    provided the same shall be reasonably  
16                    sufficient for such purpose, and in no  
17                    event shall it be less than forty cents per  
18                    day nor more than seventy-five cents per  
19                    day for each prisoner. The net profits  
20                    shall constitute fees of office and shall  
21                    be accounted for by the sheriff in his  
22                    annual report as other fees now provided by  
23                    law. The sheriff shall in such report  
24                    furnish an itemized verified account of all  
25                    expenditures made by him for feeding and  
26                    maintenance of prisoners, accompanying such  
27                    report with receipts and vouchers in  
28                    support of such items of expenditure, and  
29                    the difference between such expenditures  
30                    and the amount allowed by the commissioners  
31                    court shall be deemed to constitute the net  
32                    profits for which said officer shall  
33                    account as fees of office.

34                    3. For necessary medical bill and  
35                    reasonable extra compensation for attention  
36                    to a prisoner during sickness, such an  
37                    amount as the commissioners court of the  
38                    county where the prisoner is confined may  
39                    determine to be just and proper.

40                    4. For reasonable funeral expenses  
41                    in case of death.

42                    Art. 1041. The sheriff shall be  
43                    allowed for each guard or matron  
44                    necessarily employed in the safekeeping of  
45                    prisoners Two Dollars and Fifty Cents  
46                    (\$2.50) for each day. No allowance shall  
47                    be made for the board of such guard or  
48                    matron, nor shall any allowance be made for  
49                    jailer or turnkey, except in counties  
50                    having a population in excess of forty  
51                    thousand (40,000) inhabitants according to  
52                    the last preceding Federal Census. In such  
53                    counties of forty thousand (40,000) or more  
54                    inhabitants, the Commissioners Court may  
55                    allow each jail guard, matron, jailer and  
56                    turnkey Four Dollars and Fifty Cents  
57                    (\$4.50) per day; provided that in counties  
58                    having a population in excess of seventy  
59                    thousand (70,000) inhabitants and less than  
60                    two hundred and twenty thousand (220,000)  
61                    inhabitants, according to the last

1 preceding Federal Census, the Commissioners  
2 Court of such counties may allow each jail  
3 guard, jailer, matron and turnkey a salary  
4 of not to exceed One Hundred and  
5 Eighty-seven Dollars and Fifty Cents  
6 (\$187.50) per month; provided further that,  
7 in counties having a population in excess  
8 of two hundred and twenty thousand  
9 (220,000) inhabitants, according to the  
10 last preceding Federal Census, each jail  
11 guard, matron, jailer, jail bookkeeper and  
12 turnkey shall be paid not less than One  
13 Hundred and Seventy-five Dollars (\$175) per  
14 month.

15 Art. 1041a. In all counties in this  
16 State having a population of one hundred  
17 and forty-five thousand (145,000)  
18 inhabitants and not more than three hundred  
19 thousand (300,000) inhabitants according to  
20 the last or any future Federal Census, the  
21 Commissioners Court shall allow the chief  
22 jailer and/or turnkey who has the care and  
23 custody of persons in the County Jail, not  
24 to exceed Eight Dollars (\$8) per day, and  
25 shall allow each assistant jailer and/or  
26 turnkey who has the care and custody of  
27 prisoners in the County Jail, not to exceed  
28 Six Dollars and Fifty Cents (\$6.50) per  
29 day, and not to exceed four (4) assistant  
30 jailers and/or turnkeys and a matron for  
31 each jail.

32 Art. 1041b. Every member of the  
33 sheriff's department assigned to duty as  
34 jailer, jail guard, or jail matron at any  
35 county jail in any city of more than  
36 twenty-five thousand (25,000) inhabitants  
37 shall be allowed fifteen (15) days vacation  
38 in each year with pay, not more than two  
39 (2) members to be on vacation at the same  
40 time; provided that the provisions of this  
41 Section of this Act shall not be applied to  
42 any such jailer, jail guard, or jail matron  
43 in any city of more than twenty-five  
44 thousand (25,000) inhabitants, unless such  
45 member shall have been regularly employed  
46 as such jailer, jail guard, or jail matron  
47 for a period of at least one year.

48 Each preceding Federal Census shall  
49 determine the population.

50 The sheriff having supervision of the  
51 county jail shall designate the days upon  
52 which each jailer, jail guard, or jail  
53 matron shall be allowed to be on vacation.

54 The sheriff having supervision of the  
55 county jail in any such city who violates  
56 any provision of this Article shall be  
57 fined not less than Ten Dollars (\$10) nor  
58 more than One Hundred Dollars (\$100).

59 Art. 1042. The sheriff shall pay the  
60 expenses of jurors impaneled in cases of  
61 felony (except when they are paid by the  
62 juror himself), the expenses of employing  
63 and maintaining a guard, and to support and

1 take care of all prisoners, for all of  
2 which, he shall be reimbursed by the proper  
3 county according to the rates fixed in the  
4 two preceding articles.

5 Art. 1043. At each term of the  
6 district court of his county, the sheriff  
7 may present to the district judge presiding  
8 his accounts for all expenses incurred by  
9 him for food and lodging of jurors in case  
10 of trials for felony during the term at  
11 which his account is presented. Such  
12 account shall state the number and style of  
13 the cases in which the jurors were  
14 impaneled, and specify by name each juror's  
15 expenses paid by such sheriff, and the  
16 number of days the same were paid, and  
17 shall be verified by the affidavit of such  
18 sheriff.

19 Art. 1044. Such account shall be  
20 carefully examined by the district judge;  
21 and he shall approve it, or so much thereof  
22 as he finds correct. He shall write his  
23 approval of said account, specifying the  
24 amount for which it is approved, date and  
25 sign the same officially, and shall cause  
26 the same to be filed in the office of the  
27 district clerk of the county liable  
28 therefor.

29 Art. 1045. The district judge shall  
30 give the sheriff a draft upon the county  
31 treasurer of the proper county for the  
32 amount of each account allowed by him; and  
33 the same, when presented to such treasurer,  
34 shall be paid in like manner as jury  
35 certificates are paid.

36 Art. 1046. At each regular term of  
37 the commissioners court, the sheriff shall  
38 present to such court his account verified  
39 by his affidavit for the expense incurred  
40 by him since the last account presented for  
41 the safe-keeping and maintenance of  
42 prisoners, including guards employed, if  
43 any. Such account shall state the name of  
44 each prisoner, each item of expense  
45 incurred on account of such prisoner, the  
46 date of each item, the name of each guard  
47 employed, the length of time employed and  
48 the purpose of such employment.

49 Art. 1047. The commissioners court  
50 shall examine such account and allow the  
51 same, or so much thereof as is reasonable  
52 and in accordance with law, and shall order  
53 a draft issued to the sheriff upon the  
54 county treasurer for the amount so allowed.  
55 Such account shall be filed and kept in the  
56 office of such court.

57 (9) The revised law omits Article 1052,  
58 V.T.C.C.P., Part II, because it was impliedly repealed  
59 by V.A.C.S. Article 3912e. Article 1052 requires a

1 county to pay a fee to county judges, judges of county  
2 courts, and justices of the peace for the trying of  
3 criminal cases. County judges and judges of county  
4 courts in Texas are paid on a salary basis, as are  
5 justices of the peace. For the reasons cited in  
6 Subdivision (1) of this revisor's note, counties are  
7 prohibited from paying fees to the named officers. The  
8 omitted article reads as follows:

9 Art. 1052. Five Dollars (\$5) shall  
10 be paid to the County Judge or Judge of the  
11 Court at Law and Four Dollars (\$4) shall be  
12 paid to the Justice of the Peace for each  
13 criminal action tried and finally disposed  
14 of before him. Such Judge or Justices  
15 shall present to the Commissioners Court of  
16 his county at a regular term thereof a  
17 written account specifying each criminal  
18 action in which he claims such fee  
19 certified by such Judge or Justice to be  
20 correct and filed with the County Clerk.  
21 The Commissioners Court shall approve such  
22 account for such amounts as they find to be  
23 correct and order a draft to be issued on  
24 the County Treasurer in favor of such Judge  
25 or Justice for the amount due said Judge or  
26 Justice from the county. The Commissioners  
27 Court shall not however pay any account or  
28 trial fees in any case tried and in which  
29 an acquittal is had unless the State of  
30 Texas was represented in the trial of said  
31 cause by the County Attorney or his  
32 assistant, Criminal District Attorney or  
33 his assistant and the certificate of said  
34 Attorney is attached to said account  
35 certifying to the fact that said cause was  
36 tried, and the State of Texas was  
37 represented, and that in their judgment  
38 there was sufficient evidence in said cause  
39 to demand a trial of the same. All fees  
40 provided herein which are paid to officers  
41 who are compensated on a salary basis shall  
42 be paid into the Officers Salary Fund.

43 (10) The revised law omits Articles 1053 and  
44 1054, V.T.C.C.P., Part II. Article 1053 requires the  
45 state or county to pay fees for justices of the peace  
46 for performing inquests. For the reasons cited in  
47 Subdivision (1) of this revisor's note, the state and  
48 counties are prohibited from paying fees to justices of

1 the peace. The revised law omits Article 1054 because  
2 the article establishes procedures whereby justices of  
3 the peace prove up fees and receive payment for  
4 inquests. Since justices of the peace are prohibited  
5 from receiving the fees, the article is meaningless.

6 The omitted articles read as follows:

7 Art. 1053. A Justice of the Peace  
8 shall be entitled, for an inquest on a dead  
9 body, including certifying and returning  
10 the proceeding to the proper court, the sum  
11 of Ten Dollars (\$10), to be paid by the  
12 county. When an inquest is held over the  
13 dead body of a State penitentiary convict,  
14 the State shall pay the inquest fees  
15 allowed by law of all officers, upon the  
16 approval of the account therefor by the  
17 Commissioners Court of the county in which  
18 the inquest may be held and by the General  
19 Manager of the Texas Prison System.

20 Art. 1054. Any officer claiming pay  
21 for services mentioned in the preceding  
22 article shall present to the commissioners  
23 court of the county, at a regular term of  
24 such court, an account therefor, verified  
25 by the affidavit of such claimant. If such  
26 account be found correct the court shall  
27 order a draft to issue upon the county  
28 treasurer in favor of such claimant for the  
29 amount due him. Such account shall be  
30 filed and kept in the office of the county  
31 clerk.

32 (11) The revised law omits that part of Article  
33 1055, V.T.C.C.P., Part II, that establishes a procedure  
34 whereby the county pays half of the fees to be paid to  
35 officers by defendants who subsequently discharge fees  
36 by serving jail time. For the reasons cited in  
37 Subdivision (1) of this revisor's note, the county is  
38 prohibited from paying fees to officers. The omitted  
39 part of Article 1055 reads as follows:

40 Art. 1055. The county shall not be  
41 liable to the officer . . . having costs in  
42 a misdemeanor case where defendant pays his  
43 fine and costs. The county shall be liable  
44 for one-half of the fees of the officers of  
45 the Court, when the defendant fails to pay  
46 his fine and lays his fine out in the  
47 county jail or discharges the same by means  
48 of working such fine out on the county

1 roads or on any county project. And to pay  
2 such half of costs, the County Clerk shall  
3 issue his warrant on the County Treasurer  
4 in favor of such officer to be paid out of  
5 the Road and Bridge Fund or other funds not  
6 otherwise appropriated.

7 (12) The revised law omits Article 1058,  
8 V.T.C.C.P., Part II. Article 1058 requires counties to  
9 pay fees as compensation to grand jury bailiffs and  
10 sheriffs for services performed in criminal cases. For  
11 the reasons cited in Subdivision (1) of this revisor's  
12 note, counties are prohibited from paying fees as  
13 compensation to the named officers. The omitted  
14 article reads as follows:

15 Art. 1058. Each grand jury bailiff  
16 appointed as such bailiff shall receive as  
17 compensation for his services the sum of  
18 Five (\$5.00) Dollars for each day he may  
19 serve, and each riding grand jury bailiff  
20 appointed in counties of a population of  
21 one hundred fifty thousand (150,000) or  
22 more, according to the last Federal Census,  
23 shall receive as compensation for his  
24 services the sum of Six (\$6.00) Dollars for  
25 each day he may serve, and shall further  
26 receive One (\$1.00) Dollar per day for  
27 automobile expense and upkeep; provided,  
28 however, that not more than ten (10) such  
29 bailiffs shall be employed at any one time;  
30 and providing further, that the sheriff or  
31 deputy sheriff attending any County or  
32 District Court in counties of over three  
33 hundred fifty thousand (350,000), according  
34 to the last preceding Federal Census shall  
35 be paid the sum of Six (\$6.00) Dollars for  
36 each day the sheriff or deputy sheriff  
37 shall serve in any of such said courts as  
38 bailiffs, and One (\$1.00) Dollar per day as  
39 automobile expense and upkeep for each day  
40 he may use said automobile.

41 The compensation herein provided for  
42 shall be paid from the General or Jury Fund  
43 of the county affected, as may be  
44 determined by the Commissioners Court  
45 thereof, upon sworn accounts showing the  
46 Court in which or the Grand Jury for which,  
47 said Bailiff, Sheriff, or Deputy Sheriff  
48 serves, with a statement showing the dates  
49 on which the service was performed and the  
50 amounts due. No such claim shall be paid  
51 until approved by the foreman of the Grand  
52 Jury or the Judge of the Court for which  
53 the service was performed, and said claims  
54 shall be presented to the Commissioners

1 Court or to the County Auditor in counties  
2 having a County Auditor, and shall be  
3 allowed in the manner provided by law for  
4 so much thereof as may be found due, and no  
5 warrant in payment of the amount due shall  
6 be paid unless countersigned by the County  
7 Auditor, if any.

8 (13) The revised law omits Article 1058a,  
9 V.T.C.C.P., Part II, because it was impliedly repealed  
10 by V.A.C.S. Article 6813b, which provides that the  
11 legislature shall set the amount of supplemental  
12 salaries, to be paid out of court fees, to employees of  
13 the courts of appeal. The omitted article reads as  
14 follows:

15 Art. 1058a. That the commissioners  
16 court of any county, having a population of  
17 210,000 or more, in which is located a  
18 Court of Civil Appeals having its quarters  
19 in the County Court House, is authorized to  
20 pay out of its General Fund, not exceeding  
21 fifty dollars per month, to the Bailiff of  
22 such Court of Civil Appeals, or other  
23 employee of said Court designated by it, as  
24 additional compensation for his services as  
25 Custodian of the Court Room, Judges  
26 Chambers and Library of such Court of Civil  
27 Appeals.

1 APPENDIX A  
2 CONFORMING AMENDMENTS

3 SECTION 2. Section 6(e), Chapter 418, Acts of the 65th  
4 Legislature, Regular Session, 1977 (Article 1200f, Vernon's Texas  
5 Civil Statutes), is amended to read as follows:

6 (e) Each officer collecting court costs under this section  
7 shall file the reports required under Article 103.005, Code of  
8 Criminal Procedure [~~Articles--944--and--945,--Code--of--Criminal~~  
9 ~~Procedure,--1925--(Articles--1001--and--1002,--Part--II,--Vernon's--Texas~~  
10 ~~Code--of--Criminal--Procedure,--1965)~~]. If no funds due as costs under  
11 this section have been collected in any quarter, the report  
12 required for each quarter shall be filed in the regular manner, and  
13 the report shall state that no funds due under this section were  
14 collected.

15 SECTION 3. Section 9B(e)(1), Chapter 546, Acts of the 59th  
16 Legislature, Regular Session, 1965 (Article 4413(29aa), Vernon's  
17 Texas Civil Statutes), is amended to read as follows:

18 (e)(1) All officers collecting court costs under this  
19 section shall file the reports required by Article 103.005, Code of  
20 Criminal Procedure [~~Articles--1001--and--1002,--Code--of--Criminal~~  
21 ~~Procedure,--1925)~~].

22 SECTION 4. Section 12.107, Parks and Wildlife Code, is  
23 amended to read as follows:

24 Sec. 12.107. REMISSION OF FINES. (a) A justice of the  
25 peace, clerk of any court, or any other officer of the state who  
26 receives a fine imposed by a court for a violation of any law  
27 relating to the protection and conservation of wild birds, wild  
28 fowl, wild animals, fish, oysters, and other wildlife shall send  
29 the fine to the department within 10 days after the date of  
30 collection. A statement containing the docket number of the case,  
31 the name of the person fined, and the section of the law violated

1 must accompany the remission of the fine.

2 (b) The amount of the fine to be remitted to the department  
3 is 80 percent in county court cases and 85 percent in justice court  
4 cases.

5 [ ~~(c) The fees set out in Articles 950 and 951, Code of~~  
6 ~~Criminal Procedure, 1925, shall be deducted from fines imposed for~~  
7 ~~violations of laws relating to wild game, birds, fish, oysters, and~~  
8 ~~other wildlife. ]~~



1039.....104.001  
1040.....104.002 (RN)  
1041.....104.002 (RN)  
1041a.....104.002 (RN)  
1041b.....104.002 (RN)  
1042.....104.002 (RN)  
1043.....104.002 (RN)  
1044.....104.002 (RN)  
1045.....104.002 (RN)  
1046.....104.002 (RN)  
1047.....104.002 (RN)  
1048.....104.002  
1049.....104.002  
1050.....104.001  
1051.....104.001  
1052.....104.002 (RN)  
1053.....104.002 (RN)  
1054.....104.002 (RN)  
1055 (part).....102.002  
    (part).....104.002 (RN)  
1058.....104.002 (RN)  
1058a.....104.002 (RN)  
1059.....104.001  
1060.....104.001  
1061.....102.008  
1062.....102.008  
1063.....102.008  
1064.....102.005  
1065.....102.009 (RN)  
1075.....102.004  
1076.....102.004  
1077.....103.012 (RN)  
1078.....102.002  
1079.....102.002  
1080.....102.002  
1081.....102.002  
1082.....102.002  
1083, Sec. 1.....102.056 (RN)  
    Sec. 2.....102.055  
    Sec. 3.....102.051  
    Sec. 4.....102.051  
    Sec. 5.....102.051  
    Sec. 6.....102.052  
    Sec. 7.....102.054  
    Sec. 8.....102.055  
    Sec. 9.....102.056  
    Sec. 10.....102.056  
    Sec. 11.....102.053

1 APPENDIX C

2 V.A.C.S. Art. 5429b-2. CODE CONSTRUCTION ACT

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 1.01. PURPOSE. This Act provides rules to aid in the  
5 construction of codes (and amendments to them) enacted pursuant to  
6 the state's continuing statutory revision program. The rules set  
7 out in this Act are not intended to be exclusive but are meant to  
8 describe and clarify common situations in order to guide the  
9 preparation and construction of the codes.

10 Sec. 1.02. APPLICABILITY. This Act applies to

11 (1) each code enacted by the 60th or a subsequent  
12 Legislature as part of the state's continuing statutory revision  
13 program;

14 (2) each amendment, repeal, revision, and reenactment of a  
15 code, or provision thereof, which amendment, repeal, revision, or  
16 reenactment is enacted by the 60th or a subsequent Legislature;

17 (3) each repeal of a statute by a code; and

18 (4) each rule promulgated under a code.

19 Sec. 1.03. CITATION OF CODES. A code may be cited by its  
20 name followed by the specific part concerned. For example:

21 (1) Business & Commerce Code, Tit. 1;

22 (2) Business & Commerce Code, Ch. 5;

23 (3) Business & Commerce Code, Sec. 9.304;

24 (4) Business & Commerce Code, Sec. 15.06(a);

25 (5) Business & Commerce Code, Sec. 17.18(b)(1)(B)(ii).

26 Sec. 1.04. GENERAL DEFINITIONS. The following definitions  
27 apply unless the statute or context in which the word or phrase is  
28 used requires a different definition:

29 (1) "oath" includes affirmation;

30 (2) "person" includes corporation, organization, government  
31 or governmental subdivision or agency, business trust, estate,

1 trust, partnership, association, and any other legal entity;

2 (3) "population" means that shown by the most recent federal  
3 decennial census;

4 (4) "property" means real and personal property;

5 (5) "rule" includes regulation;

6 (6) "signed" includes any symbol executed or adopted by a  
7 person with present intention to authenticate a writing;

8 (7) "state", when referring to a part of the United States,  
9 includes any state, district, commonwealth, territory, insular  
10 possession of the United States, and any area subject to the  
11 legislative authority of the United States of America;

12 (8) "swear" includes affirm;

13 (9) "United States" includes department, bureau, and any  
14 other agency of the United States of America;

15 (10) "week" means seven consecutive days;

16 (11) "written" includes any representation of words,  
17 letters, symbols, or figures; and

18 (12) "year" means 12 consecutive months.

19 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

20 Sec. 2.01. COMMON AND TECHNICAL USAGE OF WORDS. Words and  
21 phrases shall be read in context and construed according to the  
22 rules of grammar and common usage. Words and phrases that have  
23 acquired a technical or particular meaning, whether by legislative  
24 definition or otherwise, shall be construed accordingly.

25 Sec. 2.02. TENSE, NUMBER, AND GENDER. (a) Words in the  
26 present tense include the future tense.

27 (b) The singular includes the plural, and the plural  
28 includes the singular.

29 (c) Words of one gender include the other genders.

30 Sec. 2.03. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A  
31 grant of authority to three or more persons as a public body  
32 confers the authority upon a majority of the number of members

1 fixed by statute.

2 (b) A quorum of a public body is a majority of the number of  
3 members fixed by statute.

4 Sec. 2.04. COMPUTATION OF TIME. (a) In computing a period  
5 of days, the first day is excluded and the last day is included.

6 (b) If the last day of any period is a Saturday, Sunday, or  
7 legal holiday, the period is extended to include the next day which  
8 is not a Saturday, Sunday, or legal holiday.

9 (c) If a number of months is to be computed by counting the  
10 months from a particular day, the period ends on the same numerical  
11 day in the concluding month as the day of the month from which the  
12 computation is begun, unless there are not that many days in the  
13 concluding month, in which case the period ends on the last day of  
14 that month.

15 Sec. 2.05. REFERENCE TO A SERIES. If a statute refers to a  
16 series of numbers or letters, the first and last numbers or letters  
17 are included.

18 SUBCHAPTER C. CONSTRUCTION OF STATUTES

19 Sec. 3.01. INTENTIONS IN ENACTMENT OF STATUTES. In enacting  
20 a statute, it is presumed that

21 (1) compliance with the constitutions of this state and the  
22 United States is intended;

23 (2) the entire statute is intended to be effective;

24 (3) a just and reasonable result is intended;

25 (4) a result feasible of execution is intended; and

26 (5) public interest is favored over any private interest.

27 Sec. 3.02. PROSPECTIVE OPERATION OF STATUTES. A statute is  
28 presumed to be prospective in its operation unless expressly made  
29 retrospective.

30 Sec. 3.03. CONSTRUCTION AIDS. In construing a statute,  
31 whether or not the statute is considered ambiguous on its face, a  
32 court may consider among other matters the

- 1 (1) object sought to be attained;
- 2 (2) circumstances under which the statute was enacted;
- 3 (3) legislative history;
- 4 (4) common law or former statutory provisions, including  
5 laws upon the same or similar objects;
- 6 (5) consequences of a particular construction;
- 7 (6) administrative construction of the statute; and
- 8 (7) title, preamble, and emergency provision.

9 Sec. 3.04. CAPTIONS NOT PART OF STATUTE. Title, subtitle,  
10 chapter, subchapter, and section captions do not limit or expand  
11 the meaning of any statute.

12 Sec. 3.05. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)  
13 Except as provided in Section 3.11(d) of this Act, if statutes  
14 enacted at the same or different sessions of the legislature are  
15 irreconcilable, the statute latest in date of enactment prevails.

16 (b) Except as provided in Section 3.11(d) of this Act, if  
17 amendments to the same statute are enacted at the same session of  
18 the legislature, one amendment without reference to another, the  
19 amendments shall be harmonized, if possible, so that effect may be  
20 given to each. If the amendments are irreconcilable, the latest in  
21 date of enactment prevails.

22 Sec. 3.06. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL.  
23 If a general provision conflicts with a special or local provision,  
24 they shall be construed, if possible, so that effect is given to  
25 both. If the conflict between the provisions is irreconcilable,  
26 the special or local provision prevails as an exception to the  
27 general provision, unless the general provision is the later  
28 enactment and the manifest intent is that the general provision  
29 prevail.

30 Sec. 3.07. STATUTORY REFERENCES. Unless expressly provided  
31 otherwise, a reference to any portion of a statute applies to all  
32 reenactments, revisions, or amendments of the statute.

1           Sec. 3.08. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform  
2 act included in a code shall be construed to effectuate its general  
3 purpose to make uniform the law of those states which enact it.

4           Sec. 3.09. ENROLLED BILL CONTROLS. If the language of the  
5 enrolled bill version of a statute conflicts with the language of  
6 any subsequent printing or reprinting of the statute, the language  
7 of the enrolled bill version controls.

8           Sec. 3.10. REPEAL OF REPEALING STATUTE. The repeal of a  
9 repealing statute does not revive the statute originally repealed  
10 nor impair the effect of any saving provision in it.

11          Sec. 3.11. SAVING PROVISIONS. (a) Except as provided in  
12 Subsection (b) of this section, the reenactment, revision,  
13 amendment, or repeal of a statute does not affect

14           (1) the prior operation of the statute or any prior action  
15 taken under it;

16           (2) any validation, cure, right, privilege, obligation, or  
17 liability previously acquired, accrued, accorded, or incurred under  
18 it;

19           (3) any violation of the statute, or any penalty,  
20 forfeiture, or punishment incurred in respect to it, prior to the  
21 amendment or repeal; or

22           (4) any investigation, proceeding, or remedy in respect to  
23 any privilege, obligation, liability, penalty, forfeiture, or  
24 punishment; and the investigation, proceeding, or remedy may be  
25 instituted, continued, or enforced, and the penalty, forfeiture, or  
26 punishment imposed, as if the statute had not been repealed or  
27 amended.

28           (b) If the penalty, forfeiture, or punishment for any  
29 offense is reduced by a reenactment, revision, or amendment of a  
30 statute, the penalty, forfeiture, or punishment (if not already  
31 imposed) shall be imposed according to the statute as amended.

32           (c) The repeal of a statute by a code does not affect an

1 amendment, revision, or reenactment of the statute by the same  
2 legislature which enacted the code. The amendment, revision, or  
3 reenactment is preserved and given effect as part of the code  
4 provision which revised the statute so amended, revised, or  
5 reenacted.

6 (d) If any provision of a code conflicts with a statute  
7 enacted by the same legislature which enacted the code, the statute  
8 controls.

9 Sec. 3.12. SEVERABILITY OF STATUTES. If any Act passed by  
10 the Legislature shall contain a provision for severability, such  
11 provision shall prevail in the interpretation of such statute. If  
12 any Act passed by the Legislature shall contain a provision for  
13 non-severability, such provision shall prevail in the  
14 interpretation of such statute. In the absence of such  
15 determination by the Legislature in a particular Act for  
16 severability or non-severability, the following construction of  
17 such Act shall prevail: If any provision of a statute or its  
18 application to any person or circumstance is held invalid, the  
19 invalidity does not affect other provisions or applications of the  
20 statute which can be given effect without the invalid provision or  
21 application, and to this end the provisions of the statute are  
22 severable.