

SUBJECT: Waiving court costs for participants in a teen court program

COMMITTEE: Juvenile Justice and Family Issues — favorable with amendment

VOTE: 5 ayes — Goodman, Brady, H. Cuellar, Puente, Van de Putte
0 nays
4 absent — Cook, De La Garza, Naishtat, Williamson

WITNESSES: For — Randy Hinckley, Marsha Hardin and Sally Brace, Azle Teen Court
Against — None
On — Bonnie Sudderth, chief judge, Fort Worth Municipal Court

BACKGROUND: A teen court program for high school students age 17 or younger who are charged with violations of local ordinances or Class C misdemeanors is created by Family Code sec. 54.032 and Code of Criminal Procedure art. 45.55. Children who ask a court to let them participate in a teen court program must first plead guilty or no contest at the municipal or justice court level. The court may then defer adjudication for 90 days to allow the child to complete the teen court program.

In teen courts sentencing hearings are held before a jury of the defendant's peers. Defendants are represented and prosecuted in these proceedings by fellow teens. Defendants are usually sentenced to a certain number of hours of community service. The defendants' cases then may be dismissed by the municipal or justice court and their record cleared of the original offense. Defendants may not have a case heard in a teen court more often than every two years.

Current law allows courts to assess a fee of up to \$10 to cover the administrative costs associated with teen courts. These fees are deposited in the treasury of the county in which the court is located. Also, defendants cannot be referred to a teen court program without first paying court costs.

DIGEST: HB 330, as amended, would amend the Code of Criminal Procedure to allow a justice or municipal court judge to waive court costs assessed against a child defendant when the child's case is deferred because of participation in a teen court program.

The court cost waiver could apply if the child was considered convicted in a criminal case, received community supervision or a deferral of adjudication. The bill would take effect on September 1, 1995, and apply only in cases of offenses committed after that date.

SUPPORTERS SAY: Teen court programs, designed to help youthful first-time offenders, should be available to every child who asks to participate, not just those who can afford court costs. Court costs may range from \$33 to \$105, while the idea of a teen court program is to offer an accessible, low-cost system for handling youths charged with less serious offenses.

As amended in committee the bill would leave the decision about court costs to a judge's discretion, creating adequate flexibility to appropriately meet the needs of various cases. Poor children, as much or more than those who can afford court costs, need the benefits of a teen court and of having an offense kept off their record. Most children do not have their own money to pay the court costs, and their parents may be reluctant or unable to pay.

Current law already allows courts to assess a special \$10 fee for teen court participation, and a HB 120, also on today's calendar, would authorize another \$10 to help defray teen court expense. Unlike regular court costs, these fees would work little hardship on any defendant.

OPPONENTS SAY: Court costs are necessary to cover heavy administrative expenses incurred by the state and local governments in operating courts. Waiving court costs for criminal defendants will cost the state money. While judges may want to waive court costs in rare instances in which defendants and their families are truly indigent, others should always pay if they can afford to do so. In hardship cases installment payments made over a period of time could easily be ordered. This bill would require no finding of indigence before a court waived costs.

NOTES:

HB 330 as originally filed would exempt all teen court defendants from paying court costs unless the defendants failed to successfully complete the teen court program. The committee amendment would make the waiver discretionary and eliminate the requirement that the defendant complete the program to qualify for the waiver.

A related bill, HB 120 by Kamel et al., also on today's calendar, would allow courts, at their discretion, to assess a \$10 fee that would go directly to cover administrative costs associated with the teen court program.