

SUBJECT: Conforming certification fees; definition of conviction for fee purposes

COMMITTEE: Criminal Jurisprudence — favorable, with amendment

VOTE: 7 ayes — Place, Talton, Greenberg, Nixon, Pickett, Pitts, Solis

0 nays

2 absent — Farrar, Hudson

SENATE VOTE: On final passage, March 29 — voice vote

WITNESSES: None

BACKGROUND: Under the Code of Criminal Procedure, art. 102.005, a defendant convicted of an offense in a county court, county court at law or a district court must pay a \$40 fee for the services of the clerk of the court, including filing a complaint or information, docketing the case, taxing costs against the defendant and issuing original writs and subpoenas.

A defendant convicted of a felony offense in district court must pay a \$5 security fee as a cost of court under the Code of Criminal Procedure, art. 102.017, which is deposited in a courthouse security fund for the purchase of hand-held metal detectors, identification cards and systems and electronic locking and surveillance equipment, among other things. A defendant convicted of a misdemeanor offense in a county court, county court at law, or a district court must pay a \$3 security fee as a cost of court.

DIGEST: SB 349, as amended, would amend the Local Government Code, art. 118.052, to raise the fee that a county clerk would collect for the clerk's certificate from \$1 per page to \$5 per document.

The bill would amend art. 102.005 to clarify that the fee imposed by law for issuing a certified or noncertified copy is in addition to the \$40 fee imposed in this section. A clerk could issue a copy only if a person requested the copy and paid the appropriate fee as required by various sections of the Local Government and Government Codes.

For purposes of the Code of Criminal Procedure, art. 102.005 and art. 102.017, a person would be considered convicted if a sentence was imposed on the person, the person received community supervision, including deferred adjudication, or the court deferred final disposition of the person's case.

Under art. 102.017, a municipal court, in addition to the county court, county court at law, and district court, would have to assess a \$3 security fee against a convicted misdemeanor defendant, and the governing body of the municipality would be responsible for administering the courthouse security fund.

**SUPPORTERS  
SAY:**

In 1993 the Legislature amended other sections of the Local Government Code to change the fee for issuance of certified copies from \$1 per copy to \$5 per document for the clerk's certificate, evidence of which would still be placed on each page of the document. Inadvertently, the fee change was not changed in the probate fees section of the code, and the disparity between the sections is causing confusion.

SB 349 would provide uniformity for the cost of the clerk's certificate and could reduce the cost of a certified copy. For example, a 20 page document that formerly cost \$40 (\$20 for the copy fee and \$20 for the clerk's certificate fee) would cost \$25 (\$20 as a copy fee and \$5 as a clerk's certificate fee).

Clarification of the term "conviction" would be beneficial to county clerks who collect fees on behalf of the county and the state in certain criminal cases. All state fee provisions indicate that a conviction includes deferred adjudication, while the county fee provisions do not provide a similar definition. The disparity creates confusion and leads to errors in assessment of court costs.

In addition, fairness dictates that a person who has gone through the court system and remains under the court's supervision, and who is clearly less than innocent of the charges, should pay a fee for court services just as the people who are found guilty by a jury.

OPPONENTS  
SAY:

Raising the fee from \$1 to \$5 is merely a revenue-generating measure by the courts that would penalize the public. A document that is only one page should not merit a \$5 cost for the clerk's certificate, a stamp that probably costs the court 10 cents to generate. In addition, requiring those who have received deferred adjudication or community supervision to pay more court fees for services provided may seem reasonable at first glance, but those persons are already hit with a variety of fees. What may seem like a small amount in isolation becomes a whopping sum when multiplied by several other pieces of legislation and existing charges. It is counterproductive to keep heaping additional sums to be paid on probationers who are struggling to go straight. They are already overburdened by court-ordered payments for victim counseling, restitutions, mandatory supervision and existing court costs.

Moreover, the court usually does not ever collect these fees. Defendants are generally indigent and fail to pay, so the court must hold a hearing to revoke the person's community supervision (probation), spending more money. The person could instead choose to spend time in jail to discharge the fees. In Travis County, a person can discharge costs at a rate of \$50 a day. The bill would actually just translate into more jail time for defendants and less money for the courts because of added collection and jail costs.

NOTES:

The committee amendment would require a defendant convicted for a misdemeanor in a municipal court to pay a \$3 security fee and require the governing body of a municipality to administer the courthouse security fund.