

SUBJECT: Allowing counties to charge prisoners for costs of jail incarceration

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Haggerty, Allen, Ellis, Gray, Lengefeld, Longoria

0 nays

3 absent — Staples, Culberson, Farrar

WITNESSES: For — David Smith, Bexar County; Lyle Larson, Bexar County
Commissioners Court

Against — Linda Reeves, Texas Inmate Families Association

DIGEST: CSHB 49 would authorize courts to require persons convicted of misdemeanors and sentenced to serve time in county jails to reimburse the county \$30 a day for the cost of their confinement. Courts also could require misdemeanants serving time in county jail as a condition of community supervision (probation) or of deferred adjudication to reimburse the counties \$30 a day for their confinement.

Defendants could be charged only for those days they were confined after they had been convicted or entered a guilty or no-contest plea. They could not be charged for days they were confined after their arrest and before their conviction or guilty or no-contest plea. They also could not be charged for the day on which their sentence or confinement began.

If defendants were charged the reimbursement fee, sheriffs would have to present them with a bill on the day they completed their terms of confinement. Courts could require defendants to pay their bills within a specified period or in specified installments. The end of the last installment period could not be later than the fifth anniversary of the last day of their confinement or, if they were placed on probation, the end of their probation period. The state would have a restitution lien for the amount owed.

In determining whether to order reimbursement, courts would have to consider defendants' employment status, earning ability, and financial

resources and any other special circumstances that could affect their ability to pay. These circumstances could include the defendant's financial responsibilities to dependents or restitution payments to victims.

CSHB 49 would take effect September 1, 1999, and would apply only to days spent in a jail on or after that date.

**SUPPORTERS
SAY:**

CSHB 49 would allow counties to recoup part of the rising cost of confining jail prisoners while holding prisoners responsible for their crimes. It would allow counties, if they chose, to charge inmates for at least some of the costs of food, housing, education, counseling, and recreation. Governmental services such as state parks often charge user fees, and county jails should be no different.

CSHB 49 would help save taxpayer dollars and would let Texas join the approximately 16 other states have similar laws. Bexar County alone estimates that it spends more than \$35 million annually to incarcerate adults and that CSHB 49 would allow it to recoup more than \$1.2 million annually. Denton County reports spending \$10 million each year to operate its jail.

Crime should not pay. Persons who break society's rules by committing crimes and are incarcerated should carry the burden of confinement. County jail prisoners come from all walks of life, and some could well afford to pay their own room and board. Many county jail prisoners are serving short-term sentences and will return to a job.

CSHB 49 includes safeguards to ensure that a charge would be levied only in appropriate cases and that it would not be used if someone were indigent or had a family in need of support. Courts would have to consider whether the inmate had a job as well as other circumstances such as dependent children. Also, the court could allow the reimbursement to be made in installments. CSHB 49 would apply only to persons who had been convicted or had pleaded guilty or no contest. Prisoners awaiting the resolution of their cases could not be charged.

**OPPONENTS
SAY:**

CSHB 49 would be unfair to prisoners and a burden on their families. Society, through its tax dollars, has a responsibility to pay for housing those whom it incarcerates.

Prisoners' families likely would bear the brunt of CSHB 49. These families, many of whom are of modest means, often experience hardships when someone is incarcerated. They must support themselves and most often the prisoners while they are in jail and after they are released. Requiring inmates' families and loved ones in effect to pay for the prisoner's incarceration would be like forcing them to pay another tax to the county in addition to those they already pay. Prisoners' families, including their children, could suffer if they had to pay the cost of prisoners' incarceration.

CSHB 49 could be used to harass and further punish inmates. It could be especially unfair if aggressive collection techniques were used and a debt to a county jail damaged a prisoner's credit or prevented the prisoner from getting a job.

NOTES:

The original bill would have required, instead of allowing, counties to charge inmates for the cost of their incarceration; made state prison inmates liable for the costs of their incarceration; and allowed inmates and prisoners to pay for their confinement by performing community service. It would have allowed counties and the state prison system to waive inmates' and prisoners' liability in the best interest of the offender and the public.

The companion bill, SB 1276 by Wentworth, passed the Senate on April 29 and was reported favorably by the House Corrections Committee on May 3, making it eligible to be considered in lieu of HB 49.