

## **BILL ANALYSIS**

Senate Research Center  
86R2714 SRS-D

S.B. 346  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A study by the Office of Court Administration identified 143 distinct criminal court costs in 17 different categories that as of January 1, 2018, are required to be assessed in Texas. Accordingly, the criminal court cost system in Texas is difficult for county and district clerks to administer and for the state to audit. This leads to significant resources being devoted by both the state and local governments to attempt to ensure compliance with state law. Despite these enormous efforts, however, it often is impossible to adhere to the unnecessarily complex criminal court costs established by current law.

What's more, in *Salinas v. State*, 524 S.W.3d 103 (2017) the Texas Court of Criminal Appeals ruled that revenue generated by court costs could not be used to fund counseling programs for abused children or rehabilitation services to assist persons with traumatic brain or spinal chord injuries. The court held criminal court costs assessed as an alternative means of collecting taxes to finance programs that are more properly attached to the executive branch, rather than funding a legitimate criminal justice purpose, are unconstitutional.

In the wake of the *Salinas* case, appellate courts have ruled several other courts costs do not serve a legitimate criminal justice purpose. The loss of the proceeds from additional criminal court costs being found unconstitutional could have negative impacts on the provisions of vital services, particularly those paid for by local government entities with the proceeds from court costs.

S.B. 346 would consolidate the many criminal court costs contained in current law, while still being revenue neutral to the greatest extent possible. The new system would be substantially easier to comply with and audit. It also would preemptively prevent potential budgetary problems that both the state and local governments could face should additional costs be ruled unconstitutional, especially mid-budget cycle.

As proposed, S.B. 346 amends current law relating to the consolidation and allocation of state criminal court costs; increasing the amounts of certain court costs and reducing the amounts of certain other court costs.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 133.102, Local Government Code, by amending Subsections (a) and (e) and adding Subsections (g) and (h), as follows:

(a) Requires a person convicted of an offense, subject to Subsection (g), to pay as a court cost, in addition to all other costs:

(1) \$185, rather than \$133, on a conviction of a felony;

(2) \$160, rather than \$83, on a conviction of a Class A or Class B misdemeanor;

(3) \$122 on conviction of a Class C misdemeanor, except as provided by Subdivision (4); or

(4) \$30, on conviction of a criminal violation of a municipal or county ordinance including a conviction of an offense relating to a pedestrian or the parking of a motor vehicle, rather than \$40 on conviction of a nonjailable misdemeanor offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.

(e) Requires the comptroller of public accounts of the State of Texas (comptroller) to allocate the court costs received under this section to certain accounts and funds in a certain manner. Adds new funds, decreases percentages allocated to certain funds, and redesignates an allocation to law enforcement officers standards and education as an allocation to the Texas Commission on Law Enforcement.

(g) Defines "consumer price index." Authorizes the Texas Judicial Council (TJC), on January 1 of each year, to increase each court cost amount prescribed by this section that was in effect on December 31 of the previous year by a percentage equal to the inflation rate for the preceding four-calendar-year period, and to round the resulting amount is rounded to the nearest dollar, if:

(1) the inflation rate for that period, as determined by TJC using the consumer price index for each of the preceding four calendar years, was at least three percent; and

(2) the legislature did not increase the amount of the court cost during that period.

(h) Requires, not later than October 1 of each year:

(1) TJC to determine the amounts of the court costs prescribed by this section that will be in effect on January 1 of the following year as provided by Subsections (a) and (g) and provide that information to the Office of Court Administration (OCA); and

(2) OCA to publish the court cost amounts that will be in effect on January 1 of the following year on OCA's Internet website and to distribute the court cost information electronically to court clerks in this state.

**SECTION 2.** Amends Article 42.037(g)(1), Code of Criminal Procedure, to decrease the restitution fee from \$12 to \$6 and to delete a requirement of the court to order a portion of the fee to be paid to the compensation to victims of crime fund.

**SECTION 3.** Amends Articles 102.0178(a), (d), and (e), Code of Criminal Procedure, as follows:

(a) Decreases from \$60 to \$30 the court cost a person is required to pay on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under certain chapters.

(d) Requires the custodian of a county treasury to keep records of the amount of funds on deposit collected under this article. Deletes existing text requiring funds collected under this article during the preceding quarter to be sent to the comptroller at a specified time, except as provided by Subsection (c).

(e) Authorizes a county that has established a drug court program or establishes a drug court program to use the funds collected under this article exclusively for the development and maintenance of drug court programs operated within the county. Deletes existing text entitling a county to retain and use a certain percentage of the funds.

SECTION 4. Amends Section 61.002(a), Family Code, to delete payment of costs of court under Section 54.0411 (Juvenile Probation Diversion Fund) from a list relating to proceedings to which this chapter applies, to renumber subsequent subdivisions accordingly, and to change a reference to an attorney appointed to represent the child under Section 51.10(j) (relating to the list of eligible attorneys) to an attorney appointed to represent the child under Section 51.10(k) (relating to reimbursement ordered by a juvenile court).

SECTION 5. Amends Section 26.007(a), Government Code, to require the state to annually compensate each county that collects the additional fees, rather than additional fees and costs, under Section 51.703 in an amount equal to \$5,000 if the county judge is entitled to an annual salary supplement from the state under Section 26.006 (Salary Supplement from State for Certain County Judges).

SECTION 6. Amends Section 26.008(a), Government Code, to make conforming changes.

SECTION 7. Amends the heading to Section 51.702, Government Code, to read as follows:

Section 51.702. ADDITIONAL FEES IN STATUTORY COUNTY COURTS.

SECTION 8. Amend Sections 51.702(c), (d), and (e), Government Code, as follows:

(c) Requires fees, rather than court costs and fees, due under this section to be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) Makes a conforming change.

(e) Makes a conforming change.

SECTION 9. Amends the heading to Section 51.703, Government Code, to read as follows:

Section 51.703. ADDITIONAL FEES IN CERTAIN COUNTY COURTS.

SECTION 10. Amends Sections 51.703(c), (d), and (e), Government Code, to make conforming changes.

SECTION 11. Amends Sections 61.0015(c) and (e), Government Code, as follows:

(c) Requires the comptroller to pay claims for reimbursement under this section quarterly to the county treasury of each county that filed a claim. Deletes existing text requiring the comptroller to pay such claims from money collected under Article 102.0045, Code of Criminal Procedure, and deposited in the jury service fund.

(e) Requires the comptroller, if a county fails to file the claim for a reimbursement in a timely manner, to carry forward the balance owed to the county and pay the balance to the county when the next payment is required. Deletes existing text relating to a payment on a county's claim for reimbursement that is reduced under Subsection (d) and text requiring the comptroller to pay the balance owed to the county when sufficient money described by Subsection (c) is available. Makes nonsubstantive changes.

SECTION 12. Amends Section 102.021, Government Code, to delete certain costs and to renumber subdivisions accordingly from a list of costs required to be paid by a person convicted of an offense under the Code of Criminal Procedure, and to reduce certain court costs.

SECTION 13. Amends Section 102.0212, Government Code, as follows:

Section 102.0212. COURT COSTS ON CONVICTION: LOCAL GOVERNMENT CODE. Requires a person convicted of an offense to pay the following under the Local Government Code, in addition to all other costs:

- (1) increases from \$133 to \$185 the court costs on conviction of a felony;
- (2) increases from \$83 to \$160 the court costs on conviction of a Class A or Class B misdemeanor;
- (3) court costs on conviction of a Class C misdemeanor, except as provided by Section 133.102(a)(4), Local Government Code (Sec. 133.102, Local Government Code). . . \$122;
- (3-a) decreases from \$40 to \$30 court costs on conviction of a criminal violation of a municipal or county ordinance including a conviction of an offense relating to a pedestrian or the parking of a motor vehicle. Creates this subdivision from existing text and deletes text relating to a nonjailable misdemeanor offense and text excluding a conviction of an offense relating to a pedestrian or the parking of a motor vehicle; and
- (4) decreases from \$25 to \$13 a time payment fee for certain late payments; and
- (5)–(6) deletes existing text relating to costs on conviction of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle under Sections 133.105 (Fee for Support of Court-Related Purposes) and 133.107 (Fee for Support of Indigent Defense Representation), Local Government Code.

SECTION 14. Amends Section 102.061, Government Code, to remove a civil justice fee in the amount of \$0.10 from a list of fees and costs required to be collected by the clerk of a statutory county court under the Code of Criminal Procedure on conviction of a defendant.

SECTION 15. Amends Section 102.081, Government Code, remove a civil justice fee in the amount of \$0.10 from a list of fees and costs required to be collected by the clerk of a county court under the Code of Criminal Procedure on conviction of a defendant.

SECTION 16. Amends Section 102.101, Government Code, remove a civil justice fee in the amount of \$0.10 from a list of fees and costs required to be collected by the clerk of a justice court under the Code of Criminal Procedure on conviction of a defendant.

SECTION 17. Amends Section 102.121, Government Code, to remove a civil justice fee in the amount of \$0.10 from a list of fees and costs required to be collected by the clerk of a municipal court under the Code of Criminal Procedure on conviction of a defendant.

SECTION 18. Amends Section 103.0212, Government Code, to delete existing text relating to court costs for juvenile probation diversion fund from a list of fees and costs relating to juvenile proceedings and to renumber the subsequent paragraphs accordingly.

SECTION 19. Amends Section 103.0213, Government Code, to decrease from \$30 to \$10 the administrative fee for failure to appear for a complaint or citation on certain offenses and the administrative fee for failure to pay or satisfy certain judgments.

SECTION 20. Amends Section 123.003(b), Government Code, to provide that for purposes of this chapter, each county or municipality that elects to establish a regional drug court program under this section is considered to have established the program and is authorized to use, rather than is entitled to retain, fees under Article 102.0178 (Costs Attendant to Certain Intoxication and Drug Convictions), Code of Criminal Procedure, in the same manner as if the county or municipality had established a drug court program without participating in a regional program.

SECTION 21. Amends Section 123.006(c), Government Code, to delete existing text referencing funding under Article 102.0178, Code of Criminal Procedure.

SECTION 22. Amends Section 124.004(b), Government Code, to provide that each county that elects to establish a regional veterans treatment court program under this section is considered to have established the program and is authorized to use, rather than is entitled to retain, fees under

Article 102.0178, Code of Criminal Procedure, in the same manner as if the county had established a veterans treatment court program without participating in a regional program.

SECTION 23. Amends Section 129.005(b), Government Code, to provide that each county that elects to establish a regional public safety employees treatment court program under this section is considered to have established the program and is authorized to use, rather than is entitled to retain, fees under Article 102.0178, Code of Criminal Procedure, in the same manner as if the county had established a public safety employees treatment court program without participating in a regional program.

SECTION 24. Amends Section 411.145(c), Government Code, to delete existing text including certain money deposited under Article 102.020(h), Code of Criminal Procedure, among the money authorized to be used only to defray the cost of administering this subchapter (DNA Database System).

SECTION 25. Amends Section 773.006(b), Health and Safety Code, to provide that the fund for emergency medical services, trauma facilities, and trauma care systems account is composed of money deposited to the account under Section 133.102(e), Local Government Code, rather than under Article 102.0185 (Additional Costs Attendant to Intoxication Convictions: Emergency Medical Services, Trauma Facilities, and Trauma Care Systems), Code of Criminal Procedure.

SECTION 26. Amends Section 780.002(c), Health and Safety Code, as follows:

(c) Requires the comptroller, notwithstanding Subsection (b), to deposit 49.5 percent of the surcharges collected under Chapter 708 (Driver Responsibility Program), Transportation Code, in any state fiscal year to the credit of the general revenue fund only until the total amount of the surcharges deposited to the credit of the general revenue fund under Subsection (b) and Section 133.102(e)(18), Local Government Code, rather than under Subsection (b) and the state traffic fines deposited to the credit of that fund under Section 542.4031(g)(1) (relating to deposit of state traffic fine fees), Transportation Code, equals \$250 million for that year.

SECTION 27. Amends Section 133.003, Local Government Code, to delete certain criminal fees and costs from a list of costs, fines, and fees to which this chapter (Criminal and Civil Fees Payable to the Comptroller) applies and to make nonsubstantive changes.

SECTION 28. Amends Section 133.103(a), Local Government Code, to decrease from \$25 to \$13 the fee required to be paid by a person who is convicted of a felony or misdemeanor and makes a late payment.

SECTION 29. Amends Sections 706.006(a) and (b), Transportation Code, to decrease from \$30 to \$10 the administrative fee required to be paid by a person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) (relating to a contract with a political subdivision) and to decrease from \$30 to \$10 the fee required to be paid by a person who fails to pay a fine or cost in the manner ordered by the court.

SECTION 30. Amends Sections 706.007(a) and (d), Transportation Code, as follows:

(a) Requires an officer collecting a fee under Section 706.006 (Denial of License for Failure to Appear) to remit the fee to the custodian of the municipal or county treasury. Deletes existing text relating to keeping records and depositing money.

(d) Requires the custodian of a municipal or county treasury to deposit a fee remitted under Subsection (a), rather than to deposit the remainder, to the credit of the general fund of the municipality or county. Deletes existing text relating to a requirement that the custodian send \$20 of the fee collected under Section 706.006 to the comptroller.

SECTION 31. Repealer: Article 102.0045 (Fee for Jury Reimbursement to Counties), Code of Criminal Procedure.

Repealer: Article 102.0178(f) (relating to quarterly reports when no funds due as costs are deposited), Code of Criminal Procedure.

Repealer: Article 102.0178(g) (relating to deposit of funds into the drug court account), Code of Criminal Procedure.

Repealer: Article 102.0185 (Additional Costs Attendant to Intoxication Convictions: Emergency Medical Services, Trauma Facilities, and Trauma Care Systems), Code of Criminal Procedure.

Repealer: Article 102.020 (Costs Related to DNA Testing), Code of Criminal Procedure.

Repealer: Article 102.022 (Costs on Conviction to Fund Statewide Repository for Data Related to Civil Justice), Code of Criminal Procedure.

Repealer: Section 54.0411 (Juvenile Probation Diversion Fund), Family Code.

Repealer: Section 51.702(b) (relating to a certain court cost in statutory county court criminal convictions), Government Code.

Repealer: Section 51.703(b) (relating to a certain court cost in county court convictions), Government Code.

Repealer: Section 61.0015(d) (relating to apportionment when sufficient money is not available to satisfy certain claims), Government Code.

Repealer: Section 102.0211 (Court Costs on Conviction: Government Code), Government Code.

Repealer: Sections 133.103(b) (relating to time payment fees sent to the comptroller), Local Government Code.

Repealer: Section 133.104 (Fees for Services of Peace Officers Employed by the State), Local Government Code.

Repealer: Section 133.105 (Fee for Support of Court-Related Purposes), Local Government Code.

Repealer: Section 133.107 (Fee for Support of Indigent Defense Representation), Local Government Code.

Repealer: Section 542.4031 (State Traffic Fine), Transportation Code.

Repealer: Section 706.007(b) (relating to deposit of an administrative fee), Transportation Code.

Repealer: Section 706.007(c) (relating to records and reports of administrative fee activity), Transportation Code.

Repealer: Section 706.007(e) (relating to a requirement that the comptroller deposit certain amounts to the credit of the Department of Public Safety of the State of Texas), Transportation Code.

SECTION 32. Makes application of this Act prospective. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 33. Effective date: September 1, 2019.