

Reimbursement Fees Statement (11-14-2019)

OCA has received several questions and requests for reconsideration regarding its position that after January 1, 2020, the effective date of SB 346, current court costs/fees for services that have been renamed “reimbursement fees” by SB 346 cannot be assessed on convictions for offenses committed before January 1, 2020. OCA based its position on the following: 1) the fees for services historically have often been referred to as court costs, 2) court costs assessed on convictions after January 1, 2020 must be based on the court costs structure imposed by SB 346, 3) SB 346 does not include these fees as court costs - they have been renamed “reimbursement fees,” and 4) fees added or amended by SB 346 can only be assessed for offenses that occur after January 1, 2020.

After further review and discussion with clerks, county officials, and other interested stakeholders, OCA agrees that though these fees historically have been referred to as court costs, they are in fact fees for reimbursement and only a couple of them are actually defined as or labeled a court cost in statute. SB 346’s addition of the word “reimbursement” in the statutes regarding fees that are not currently labeled as a court cost in statute was done for clarification purposes, and those fees have in fact always been fees for reimbursement of services, not court costs. The assessment of fees and fines for convictions that **occur on or after January 1, 2020, for offenses committed prior to January 1, 2020**, must be based on the law in effect on the date of the offense (see Sec. 5.01 of SB 346). Therefore, the following fees¹ for reimbursement of services can still be assessed when applicable:

- 1) Community Supervision Fee – CCP, art. 42A.652(a)
- 2) Execute or Process Arrest Warrant, Capias, or Capias Pro Fine CPF – CCP, art. 102.011(a)(2)
- 3) Serve Writ – CCP, art. 102.011(a)(4)
- 4) Take and Approve Bond – CCP, art. 102.011(a)(5)
- 5) Convey Witness (charge per day) – CCP, art. 102.011(c)
- 6) Arrest without Warrant or Issue Notice to Appear – CCP, art. 102.011(a)(1)
- 7) Summon Witness (charge per witness each time summoned) – CCP, art. 102.011(a)(3)
- 8) Commitment to Jail – CCP, art. 102.011(a)(6)
- 9) Release from Jail – CCP, art. 102.011(a)(6)
- 10) Summon Jury – CCP, art. 102.011(a)(7)
- 11) Mileage Fees for certain Conveyances and Travel (29¢/mile) – CCP, art. 102.011(b)
- 12) Meals/Lodging Expenses for certain Conveyances and Travel – CCP, art. 102.011(b)

¹ This statement specifically addresses the assessment of fees for services performed that SB 346 clarified to be “reimbursement fees.” However, the same analysis applies to the assessment of other fees and fines that have been reclassified as fines under SB 346 that were in effect as fees before January 1, 2020. Therefore, these fee may still be charged for offenses committed prior to January 1, 2020, where the conviction is on or after January 1, 2020: 1) Add’l Monthly Fee for Certain Sex Offenders – CCP, art. 42A.653; 2) Children’s Advocacy Center Payment – CCP, art. 42A.455; 3) Family Violence Payment – CCP, art. 42A.504(b); 4) Repayment of Reward – CCP, arts. 37.073 & 42.152; 5) Repayment of Reward as Cond CS – CCP, art. 42A.301(b)(20); and 6) Admin Fee (FTP) – TC, § 706.006(b).

Additionally, the State Traffic Fine (Transportation Code, Sec. 542.40310) was amended by HB 2048 (86th Legislature) effective September 1, 2019. Convictions on offenses that occurred prior to September 1, 2019, must assess the amount in effect prior to September 1, 2019.

- 13) Overtime Costs for Testifying at Trial – CCP, art. 102.011(i)
- 14) Sex Offender Treatment Fee as Cond CS – CCP, art. 42A.452
- 15) Compensation to Victims of Crime Account (formerly, Fund) – CCP, art. 42A.301(b)(17)
- 16) Attorney’s Fees as Cond CS – CCP, art. 42A.301(b)(11)
- 17) Restitution Installment Fee – CCP, art. 42.037(g)
- 18) Time Payment Fee – LGC, § 133.103 -- \$25.00
- 19) Transaction Fee – CCP, art. 102.072 – not to exceed \$2.00
- 20) County Scofflaw Fee (Failure to Pay or Appear) – TC, § 502.010
- 21) Administrative Fee (Omni Fee) – Transportation Code, § 706.006(b) -- \$30.00
- 22) Fee for Processing Certain Payments – LGC, §§ 132.002, 132.003
- 23) Pretrial Intervention Reimbursement Fee (CSCD) – CCP, art. 102.012(a)
- 24) Pretrial Intervention Related Fee (CSCD) – CCP, art. 102.012(b)
- 25) Psychological Counseling Victim as Cond CS – CCP, art. 42A.301(b)(19)
- 26) Reimbursement of Law Enforcement Expenses as Cond CS – CCP, art. 42A.301(b)(18)

Though the following may appear to be fees for reimbursement of services, they are currently labeled court costs in statute and may not be charged for convictions on or after January 1, 2020, if the conviction is for an offense that occurred before January 1, 2020:

- 1) Attorney’s Fees – CCP, art. 26.05
- 2) Visual Recording Fee – CCP, art. 102.018(a)