

# Legislative Fee Changes

## 86th Legislature Regular Session

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# HB 145 – Default Fees

(LGC, § 118.131(h))

- Prior to HB 145
  - Fees defaulted to the rates in effect on August 31, 1981
- **Now**
  - Fees default to the **rates in effect the preceding fiscal year**



# HB 156 – ODL

(Transp. Code, § 521.2462(a),(a-1)- (a-3); Gov't Code § 76.015(a-1))

- **BEFORE:** Community Supervision & Corrections Department (CSCD) could supervise compliance
- **NOW:** CSCD **or** the *Personal Bond Office (PBO)*
- Administrative fee (\$25- \$60)
  - Mandatory, if CSCD supervises, but no double dipping
  - Discretionary, if PBO supervises



# HB 435 - Uncollectibles

(Gov't Code § 51.609 & CCP Art. 103.0081)

- Counties & cities spend time & money trying to collect from indigent defendants and parties
- **BEFORE:** There was a population requirement & limited to criminal fees and costs
  - More than 780,000 but less than 790,000
- **NOW:** No population limit & civil clerks can request
  - Unpaid for at least 15 years
  - Deceased or serving life or life w/o parole
  - If request is granted, clerk or officer can designate the fee or cost *uncollectible* in the fee record



# HB 770 – Settlement Agreement Database

(Gov't Code §72.034)

- OCA will establish an electronic database
  - For personal injury & wrongful death settlement agreements involving minors or incapacitated persons who are beneficiaries of the agreements
- OCA may set & collect a fee to record an agreement in the database
  - Fee cannot exceed \$50
- Applies to cases pending and filed on or after 09/01/19



# HB 1399 – DNA Records & Costs

(Gov't Code § 411.147(a)(1),(e); CCP Art. 102.020)

- Expands the **list** of felony offenses requiring a DNA sample – ***NOW***, at the time of arrest)
- Purpose
  - **To expand the DNA pool** to increase our likelihood of solving crimes
- HB 1399 v. SB 346
  - One keeps & the other consolidates & repeals the DNA court costs (\$250, \$50, or \$34)
  - Gov't Code § 311.025(b) requires the bills to be harmonized to give effect to each, if possible
  - Applying SB 346 gives effect to both



# HB 2048 – State Traffic Fine

(Transp. Code § 542.4031)

- State traffic fine increased from \$30 to \$50
- Effective for offenses committed on or after 9/1/19
- Only assess this fine if the defendant was convicted of a rules of the road offense under Subtitle C, Title 7, Transp. Code (i.e., Chapters 541-600)
- “Conviction” includes deferred adjudication and deferred disposition
- 4% to the county/city as a collection fee and 96% is directed to the state
  - Allocation used to be 5%/95%



# HB 2048 – DWI Traffic Fines

(Transp. Code § 709.001)

- DWI Traffic Fines - \$3000, \$4,500, or \$6000
  - Is in addition to fine prescribed for DWI
  - Oral pronouncement
  - “Finally convicted” probably means jail or prison
  - Indigent Defendants
  - Service collection fee 4%
  - May retain interest, if qualified
  - Comptroller has audit authority





# HB 3361 – Court Reporter Service Fee

(Gov't Code § 51.601(a-1))

- Basically, increases the court reporter service fee for Hidalgo County from \$15 to \$30
- Applies to clerk of each court if:
  - A civil case is filed;
  - The county has an official court reporter;
  - The county has a population of 750,000 or more; and
  - The county is located on the Texas-Mexico border (El Paso County and Hidalgo County)



# SB 658 – Records Management and Preservation Fee and the Records Archive Fee

(Gov't Code § 51.305(b); Local Gov't Code § 118.011(b)(f))

- Makes the temporary increases in the records archive fee and the records management and preservation fee charged by district and county courts in ***civil*** cases **permanent**.
  - Continue charging \$10



# SB 346 – Court Costs, Fines, & Reimbursement Fees

Hang in There



# SB 346 – Court Costs, Fines, & Reimbursement Fees

- Resources Are Available
  - OCA Webinar:  
<https://www.txcourts.gov/publications-training/training-materials/webinars/all-webinars/judicial-council/>
  - TAC Webinar:  
<https://www.county.org/Education-Training/Event-Presentations>
  - OCA Court Cost Charts:
    - <https://www.txcourts.gov/publications-training/publications/filing-fees-courts-costs/>
  - OCA Felony Judgment Forms and Instructions (updated):  
<https://www.txcourts.gov/rules-forms/forms/>
  - Email or Call – leave details  
[Margie.Johnson@txcourts.gov](mailto:Margie.Johnson@txcourts.gov)  
(512) 936-1183

# SB 346 – Court Costs, Fines, & Reimbursement Fees

- Adds costs to the state consolidated court cost (Local Gov't Code § 133.102)
- Creates a local consolidated court cost (Local Gov't Code §§ 134.101-134.103)
- Reclassifies several court costs as fines (see cost charts)
- Creates a new category of reimbursement fees (to recover cost of services performed)
- Repeals certain court costs that were not collected for criminal justice purposes or restricts use to that



# SB 346 – Court Costs, Fines, & Reimbursement Fees

## What Does This Mean:

- Defendants now pay **only** 2 court costs;
  - The state consolidated court cost
  - The local consolidated court cost
- Any fines imposed by the judge; and
- Any reimbursement fees for services performed



# The Distribution of the Court Costs, Fine, & Reimbursement Fees

- Court Costs
  - Local Gov't Code Secs. 133 and 134 lay out the distribution of the consolidated court costs into specific funds by certain percentages
    - State allocates the state consolidated court cost
    - Auditor/treasurer allocates local consolidated court cost
- Fines
  - In the past, the only fine was the general fine that stayed with city/county.
  - Now, the statute for the fine will indicate where the fine goes.
- Reimbursement Fees
  - Used to reimburse city/county or third-party for service provided.
  - Statute will indicate where the funds should go.



# What is a conviction?

- General definition of “conviction” does not include deferred adjudication or deferred disposition.
- Specific court cost/fine/reimbursement fee statute may alter the general definition of “conviction”
- Court costs/fines/reimbursement fees in **Local Government Code** use definition that includes deferred adjudication/disposition.
- Unless otherwise defined, court costs/fines/reimbursement fees in **Code of Criminal Procedure** do not include deferred adjudication/disposition.
- Time payment reimbursement fee was moved from LGC to CCP and no specific definition was included = no longer applies to deferred adjudication/disposition





# Imposing the court costs, fines, reimbursement fees at sentencing

- Court costs
  - Total in the judgment
  - Detailed in the bill of costs
  - Become payable once a bill of costs is produced (district/county/JP/municipal) or ready to be produced (JP/municipal)
- Fines
  - As part of punishment, should be pronounced at sentencing and made a part of the judgment
  - Total and details are included in the judgment
- Reimbursement fees
  - Total in the judgment
  - Detailed in the bill of costs



# SB 346 in light of SB 1913 (85R)

- Last session, law amended to require judges to consider ability to pay at sentencing
- Nothing about SB 346 changes that
  - Several provisions of SB 346 reinforce last session's changes
- Judges can reduce or waive court costs, fines and/or reimbursement fees
  - Mandatory costs/fines/reimbursement fees can be assessed and then reduced or waived



The U.S. Supreme Court has held that courts may not incarcerate a person for nonpayment of fines or fees without first establishing that the person's failure to pay was willful.<sup>1</sup>

There is new law in Texas which affects the imposition and collection of fines and court costs and impacts trial courts at all levels.<sup>2</sup> [Senate Bill 1913](#) and [House Bill 351](#) were passed by the 85<sup>th</sup> Legislature, Regular Session, and became effective on September 1, 2017.

Key procedural elements of the new law are as follows:<sup>3</sup>

⇒ **NEW REQUIREMENT FOR ASSESSING ABILITY TO PAY DURING OR IMMEDIATELY AFTER SENTENCING** (Art. 42.15)

- At the sentencing of a defendant who enters a plea in open court, when imposing a fine and costs **the judge is required to inquire whether the defendant has sufficient resources or income** to immediately pay all or part of the fine and costs.
- At this time, **the judge shall also consider** the defendant's financial history and other relevant ability to pay information.
- If the judge determines that the defendant does not have sufficient resources or income, **the judge is required** to determine whether the fine and costs should be:
  - required to be paid at some later date or in a specified portion at designated intervals;
  - discharged through the performance of community service;
  - waived in full or part; *or*
  - satisfied through any combination of these methods.

⇒ **NEW REQUIREMENTS AND OPTIONS FOR COMMUNITY SERVICE** (Art. 43.09)

- Any **order requiring a defendant's performance of community service must**:
  - specify the number of hours to be performed;
  - designate which agency will perform the administrative duties associated with defendant's placement in a community service program; *and*
  - include the date by which a defendant must submit proof of completion of the community service hours to the court.
- **Community service options have been expanded** to include not only service provided to a governmental entity or certain nonprofit organizations, but also:
  - attending a work and job skills training program, a preparatory class for the GED, an alcohol or drug abuse program, a rehabilitation program, a counseling program, a mentoring program, or any similar activity; *or* performing community service for an educational institution or any organization that provides services to the general public that enhances social welfare and the well-being of the community.

<sup>1</sup> *Bearden v. Georgia*, 461 U.S. 660 (1983).

<sup>2</sup> Jurisdictions required to operate a collection improvement program must also follow [rules](#) promulgated by the Texas Judicial Council. See [1 Tex. Admin. Code § 175](#).

<sup>3</sup> Statutory references are to the Texas Code of Criminal Procedure.



# SB 346 – Frequently Asked Questions

- Check out FAQs posted on our website

<https://www.txcourts.gov/media/1445235/questions-from-webinar-revised.pdf>

- You will find answers to questions regarding:
  - Assessing the **Time Payment and OMNI fees** after SB 346
  - What to do if your county does not have a specialty court
  - What costs to assess after SB 346
  - Allocation rules
  - The new fines
  - Waiving & Reducing Costs



# Questions?

Email or Call Margie Johnson  
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Provide details and leave contact information,  
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