

# Appendix

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## **APPENDIX**

### **STATUTES**

Includes changes made by the 79<sup>th</sup> Legislature

## **Pronouncing Sentence; Time; Credit for Time Spent in Jail Between Arrest and Sentence or Pending Appeal**

### **Code of Criminal Procedure, Article 42.03**

#### Section 2

(a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on the defendant's sentence for the time that the defendant has spent in jail or in a court-ordered residential program or facility in said cause from the time of the defendant's arrest and confinement until the defendant's sentence by the trial court, including confinement in jail or in a court-ordered residential program or facility ordered as a condition of deferred adjudication community supervision.

## **Restitution**

### **Code of Criminal Procedure, Article 42.037**

(g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the specified installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.

## **Deferral of Proceedings in Cases Appealed to County Court**

### **Code of Criminal Procedure, Article 42.111**

If a defendant convicted of a misdemeanor punishable by fine only appeals the conviction to a county court, on the trial in county court the defendant may enter a plea of guilty or nolo contendere to the offense. If the defendant enters a plea of guilty or nolo contendere, the court may defer further proceedings without entering an adjudication of guilt in the same manner as provided for the deferral of proceedings in justice court or municipal court under Article 45.051 of this code. This article does not apply to a misdemeanor case disposed of under Subchapter B, Chapter 543, Transportation Code, or a serious traffic violation as defined by Section 522.003, Transportation Code.

## **Fine Discharged**

### **Code of Criminal Procedure, Article 43.09**

(a) When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, if he is unable to pay the fine and costs adjudged against him, he may for such time as will

satisfy the judgment be put to work in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, as provided in the succeeding article; or if there be no such county jail industries program, workhouse, farm, or improvements and maintenance projects, he shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such confinement at \$50 for each day and rating such labor at \$50 for each day; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while he is serving his jail sentence, and in such instances he shall be entitled to the credit he has earned under this subsection during the time that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. A defendant who performs labor under this article during a day in which he is confined is entitled to both the credit for confinement and the credit for labor provided by this article.

(b) In its discretion, the court may order that for each day's confinement served by a defendant under this article, the defendant receive credit toward payment of the pecuniary fine and credit toward payment of the costs adjudged against the defendant. Additionally, the court may order that the defendant receive credit under this article for each day's confinement served by the defendant as punishment for the offense.

(c) In its discretion, the court may order that a defendant serving concurrent, but not consecutive, sentences for two or more misdemeanors may, for each day served, receive credit toward the satisfaction of costs and fines imposed for each separate offense.

(d) Notwithstanding any other provision of this article, in its discretion, the court or the sheriff of the county may grant an additional two days credit for each day served to any inmate participating in an approved work program under this article or a rehabilitation, restitution, or education program.

(e) A court in a county served by a community supervision and corrections department that has an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by submitting to electronic monitoring. A defendant that submits to electronic monitoring under this subsection discharges fines and costs in the same manner as if the defendant were confined in county jail.

(f) A court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

(g) In its order requiring a defendant to participate in community service work under Subsection (f) of this article, the court must specify:

- (1) the number of hours the defendant is required to work; and
- (2) whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program.

(h) The court may order the defendant to perform community service work under Subsection (f) of this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the

community. A governmental entity or nonprofit organization that accepts a defendant under Subsection (f) of this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the district probation department or court-related services office.

(i) The court may require bail of a defendant to ensure the defendant's faithful performance of community service under Subsection (f) of this article and may attach conditions to the bail as it determines are proper.

(j) A court may not order a defendant to perform more than 16 hours per week of community service under Subsection (f) of this article unless the court determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(k) A defendant is considered to have discharged \$100 of fines or costs for each eight hours of community service performed under Subsection (f) of this article.

(l) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, an employee of a community supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damage arising from an act or failure to act in connection with manual labor performed by an inmate pursuant to this article if the act or failure to act:

(1) was performed pursuant to confinement or other court order; and

(2) was not intentional, willfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(m) Fines and costs imposed by a municipal court, regardless of whether the court is a court of record, may be discharged in the manner provided by Subsection (f) of this article. A community supervision and corrections department or a court-related services office may provide the administrative duties and other services necessary for the placement in programs under this article of a defendant convicted in a municipal court, regardless of whether the municipal court is a court of record.

## **Suspension of Sentence and Deferral of Final Disposition**

### **Code of Criminal Procedure, Article 45.051**

(a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may, at the judge's discretion, defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(b) During the deferral period, the judge may, at the judge's discretion, require the defendant to:

(1) post a bond in the amount of the fine assessed to secure payment of the fine;

(2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;

(3) submit to professional counseling;

(4) submit to diagnostic testing for alcohol or a controlled substance or drug;

(5) submit to a psychosocial assessment;

(6) participate in an alcohol or drug abuse treatment or education program;

- (7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;
  - (8) complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;
  - (9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and
  - (10) comply with any other reasonable condition.
- (b-1) If the defendant is younger than 25 years of age and the offense committed by the defendant is a traffic offense classified as a moving violation:
- (1) Subsection (b)(8) does not apply;
  - (2) during the deferral period, the judge shall require the defendant to complete a driving safety course approved under Chapter 1001, Education Code; and
  - (3) if the defendant holds a provisional license, during the deferral period the judge shall require that the defendant be examined by the Department of Public Safety as required by Section 521.161(b)(2), Transportation Code; a defendant is not exempt from the examination regardless of whether the defendant was examined previously.
- (b-2) A person examined as required by Section (b-1)(3) must pay a \$10 examination fee.
- (b-3) The fee collected under Section (b-2) must be deposited to the credit of a special account in the general revenue fund and may be used only by the Department of Public Safety for the administration of Chapter 521, Transportation Code.
- (c) On determining that the defendant has complied with the requirements imposed by the judge under this article, the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed.
- (d) If by the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge may impose the fine assessed or a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant. This subsection does not apply to a defendant required under Subsection (b-1) to complete a driving safety course approved under Chapter 1001, Education Code, or an examination under Section 521.161(b)(2), Transportation Code.
- (d-1) If the defendant was required to complete a driving safety course or an examination under Subsection (b-1) and by the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant completed that course or examination, the judge shall impose the fine assessed. The imposition of the fine constitutes a final conviction of the defendant.
- (e) Records relating to a complaint dismissed as provided by this article may be expunged under Article 55.01. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.
- (f) This article does not apply to:
- (1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies; or
  - (2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who holds a commercial driver's license, or held a commercial driver's license when the offense was committed.

## **Jury Fee**

### **Code of Criminal Procedure, Article 102.004**

(a) A defendant convicted by a jury in a trial before a justice or municipal court shall pay a jury fee of \$3. A defendant in a justice or municipal court who requests a trial by jury and who withdraws the request not earlier than 24 hours before the time of trial shall pay a jury fee of \$3, if the defendant is convicted of the offense or final disposition of the defendant's case is deferred. A defendant convicted by a jury in a county court, a county court at law, or a district court shall pay a jury fee of \$20.

(b) If two or more defendants are tried jointly in a justice or municipal court, only one jury fee of \$3 may be imposed under this article. If the defendants sever and are tried separately, each defendant convicted shall pay a jury fee.

(c) In this article, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

## **Fee for Jury Reimbursement to Counties**

### **Code of Criminal Procedure, Article 102.0045**

(a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to all other costs, a fee of \$4 to be used to reimburse counties for the cost of juror services as provided by Section 61.0015, Government Code.

(b) The clerk of the court shall remit the fees collected under this article to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the jury service fund.

(c) The jury service fund is created in the state treasury. If, at any time, the unexpended balance of the jury service fund exceeds \$10 million, the comptroller shall transfer the amount in excess of \$10 million to the fair defense account.

(d) Fees deposited in the jury service fund under this section are exempt from the application of Section 403.095, Government Code.

## **Fees to Clerks**

### **Code of Criminal Procedure, Article 102.005**

(a) A defendant convicted of an offense in a county court, a county court at law, or a district court shall pay for the services of the court a fee of \$40.

(b) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision, including deferred adjudication; or
- (3) the court defers final disposition of the case.

(c) Except as provided by Subsection (d), the fee imposed under Subsection (a) is for all clerical duties performed by the clerk, including:

- (1) filing a complaint or information;
- (2) docketing the case;
- (3) taxing costs against the defendant;
- (4) issuing original writs and subpoenas;

- (5) swearing in and impaneling a jury;
  - (6) receiving and recording the verdict;
  - (7) filing each paper entered in the case; and
  - (8) swearing in witnesses in the case.
- (d) The fee imposed by law for issuing a certified or noncertified copy is in addition to the fee imposed by Subsection (a). The clerk may issue a copy only if a person requests the copy and pays the appropriate fee as required by Sections 118.011, 118.014, 118.0145, 118.052, 118.060, and 118.0605, Local Government Code, and Sections 51.318 and 51.319, Government Code.
- (e) Repealed by Acts 1999, 76<sup>th</sup> Leg., ch. 580, §11(b), eff. Sept. 1, 1999.
- (f) A defendant convicted of an offense in a county court, a county court at law, or a district court shall pay a fee of \$25 for records management and preservation services performed by the county as required by Chapter 203, Local Government Code. The fee shall be collected and distributed by the clerk of the court to the county treasurer, or to an official who discharges the duties commonly delegated to the county treasurer, for deposit as follows:
- (1) \$22.50 to the county records management and preservation fund for records management and preservation, including automation, in various county offices; and
  - (2) \$2.50 to the records management and preservation fund of the clerk of the court for records management and preservation services performed by the clerk of the court.
- (g) A fee deposited in accordance with Subsection (f) may be used only to provide funds for specific records management and preservation, including for automation purposes, on approval by the commissioners court of a budget as provided by Chapter 111, Local Government Code.
- (h) An expenditure from a records management and preservation fund must comply with Subchapter C, Chapter 262, Local Government Code.

## **Fees for Services of Prosecutors**

### **Code of Criminal Procedure, Article 102.008**

- (a) Except as provided by Subsection (b), a defendant convicted of a misdemeanor or a gambling offense shall pay a fee of \$25 for the trying of the case by the district or county attorney. If the court appoints an attorney to represent the state in the absence of the district or county attorney, the appointed attorney is entitled to the fee otherwise due.
- (b) No fee for the trying of a case may be charged against a defendant prosecuted in a justice court for violation of a penal statute or of the Uniform Act Regulating Traffic on Highways.
- (c) If two or more defendants are tried jointly, only one fee may be charged under this article. If the defendants sever and are tried separately, each defendant shall pay the fee.
- (d) A defendant is liable for fees imposed by Subsection (a) if the defendant is convicted of an offense and:
- (1) the defendant does not appeal the conviction; or
  - (2) the conviction is affirmed on appeal.

## **Fees for Services of Peace Officers**

### **Code of Criminal Procedure, Article 102.011**

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer;

(1) \$5 for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$50 for executing or processing an issued arrest warrant or *capias*, with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or *capias*, if the agency requests of the court, not later than the 15<sup>th</sup> day after the date of the execution of the arrest warrant or *capias*, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or *capias*, if the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision.

(3) \$5 for summoning a witness;

(4) \$35 for serving a writ not otherwise listed in this article;

(5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) \$5 for commitment or release;

(7) \$5 for summoning a jury, if a jury is summoned; and

(8) \$8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(b) In addition to fees provided by Subsection (a) of this article, a defendant required to pay fees under this article shall also pay 29 cents per mile for mileage required of an officer to perform a service listed in this subsection and to return from performing that service. If the service provided is the execution of a writ and the writ is directed to two or more persons or the officer executes more than one writ in a case, the defendant is required to pay only mileage actually and necessarily traveled. In calculating mileage, the officer must use the railroad or the most practical route by private conveyance. The defendant shall also pay all necessary and reasonable expenses for meals and lodging incurred by the officer in the performance of services under this subsection, to the extent such expenses meet the requirements of Section 611.001, Government Code. This subsection applies to:

(1) conveying a prisoner after conviction to the county jail;

(2) conveying a prisoner arrested on a warrant or *capias* issued in another county to the court or jail of the county; and

(3) traveling to execute criminal process, to summon or attach a witness, and to execute process not otherwise described by this article.

(c) If an officer attaches a witness on the order of a court outside the county, the defendant shall pay \$10 per day or part of a day spent by the officer conveying the witness and actual necessary expenses for travel by the most practical conveyance. In order to receive expenses under this subsection, the officer must make a sworn statement of the expenses and the judge issuing the attachment must approve the statement.

(d) A defendant shall pay for the services of a sheriff or constable who serves process and attends an examining trial in a felony or a misdemeanor case the same fees allowed for those services in the trial of a felony or a misdemeanor, not to exceed \$5.

(e) A fee under Subsection (a)(1) or (a)(2) of this article shall be assessed on conviction, regardless of whether the defendant was also arrested at the same time for another offense, and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted.

(f) In addition to fees provided by Subsections (a) through (g) of this article, a defendant required to pay fees under this article shall also pay the costs of overtime paid to a peace officer for time spent testifying in the trial of the case or for traveling to or from testifying in the trial of the case.

(g) In this article, “conviction” has the meaning assigned by Section 133.101, Local Government Code.

## **Costs for Breath Alcohol Testing Program**

### **Code of Criminal Procedure, Article 102.016**

(a) The custodians of municipal and county treasuries may deposit funds collected under this article in interest-bearing accounts and retain for the municipality or county interest earned on the funds. The custodians shall keep records of funds received and disbursed under this article and shall provide a yearly report of all funds received and disbursed under this article to the comptroller, the Department of Public Safety, and to each agency in the county served by the court that participates in or maintains a certified breath alcohol testing program. The comptroller shall approve the form of the report.

(b) The custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by the department may, to defray the costs of maintaining and supporting a certified alcohol breath testing program, retain \$22.50 of each court cost collected under Article 102.075 on conviction of an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor.

(c) The legislature may appropriate money deposited to the credit of the breath alcohol testing account in the general revenue fund under this subsection to the Department of Public Safety for use by the department in the implementation, administration, and maintenance of the statewide certified breath alcohol testing program.

(d) The Department of Public Safety shall maintain a list of counties that do not use the services of a certified technical supervisor employed by the department.

## **Court Costs; Courthouse Security Fund; Municipal Court Building Security Fund**

### **Code of Criminal Procedure, Article 102.017**

(a) A defendant convicted of a felony offense in a district court shall pay a \$5 security fee as a cost of court.

(b) A defendant convicted of a misdemeanor offense in a county court, county court at law, or district court shall pay a \$3 security fee as a cost of court. A defendant convicted of a misdemeanor offense in a justice court shall pay a \$4 security fee as a cost of court. The

governing body of a municipality by ordinance may create a municipal court building security fund and may require a defendant convicted of a misdemeanor offense in a municipal court to pay a \$3 security fee as a cost of court.

(c) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person;
- (2) the person receives community supervision, including deferred adjudication; or
- (3) the court defers final disposition of the person's case.

(d) Except as provided by Subsection (d-1), the clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, as appropriate, for deposit in a fund to be known as the courthouse security fund or a fund to be known as the municipal court building security fund, as appropriate. A fund designated by this subsection may be used only to finance security personnel for a district, county, justice, or municipal court, as appropriate, or to finance items when used for the purpose of providing security services for buildings housing a district, county, justice, or municipal court, as appropriate, including:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) signage;
- (8) confiscated weapon inventory and tracking systems;
- (9) locks, chains, alarms, or similar security devices;
- (10) the purchase or repair of bullet-proof glass; and
- (11) continuing education on security issues for court personnel and security personnel.

(d-1) (1) This subsection applies only to a justice court located in a county in which one or more justice courts are located in a building that is not the county courthouse.

(2) The county treasurer shall deposit one-fourth of the cost of court collected under Subsection (b) in a justice court described by Subdivision (1) into a fund to be known as the justice court building security fund. A fund designated by this subsection may be used only for the purpose of providing for a justice court located in a building that is not the county courthouse security services as described by Subsection (d).

(e) The courthouse security fund and the justice court building security fund shall be administered by or under the direction of the commissioners court. The municipal court building fund shall be administered by or under the direction of the governing body of the municipality.

## **Court Costs: Juvenile Delinquency Prevention Funds**

### **Code of Criminal Procedure, Article 102.0171**

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a \$5 graffiti eradication fee as a cost of court.

- (b) In this article, a person is considered convicted if:
- (1) a sentence is imposed on the person;
  - (2) the person receives community supervision, including deferred adjudication; or
  - (3) the court defers final disposition of the person's case.
- (c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county juvenile delinquency prevention fund. A fund designated by this subsection may be used only to:
- (1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;
  - (2) provide educational and intervention programs designed to prevent individuals from committing offenses under Section 28.08, Penal Code;
  - (3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code;
  - (4) provide funding for teen recognition and teen recreation programs;
  - (5) provide funding for local teen court programs;
  - (6) provide funding for the local juvenile probation department; and
  - (7) provide educational and intervention programs designed to prevent juveniles from engaging in delinquent conduct.
- (d) The county juvenile delinquency prevention fund shall be administered by or under the direction of the commissioners court.

## **Court Costs; Juvenile Case Manager Fund**

### **Code of Criminal Procedure, Article 102.0174**

- (a) In this article, "fund" means a juvenile case manager fund.
- (b) The governing body of a municipality by ordinance may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a municipal court to pay a juvenile case manager fee not to exceed \$5 as a cost of court.
- (c) The commissioners court of a county by order may create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense in a justice court, county court, or county court at law to pay a juvenile case manager fee not to exceed \$5 as a cost of court.
- (d) The ordinance or order must authorize the judge or justice to waive the fee required by Subsection (b) or (c) in a case of financial hardship.
- (e) In this article, a defendant is considered convicted if:
- (1) a sentence is imposed on the defendant;
  - (2) the defendant receives deferred disposition, including deferred proceedings under Article 45.052 or 45.053; or the defendant receives deferred adjudication in county court.
- (f) The clerks of the respective courts shall collect the costs and pay them to the county or municipal treasurer, as applicable, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer for deposit in the fund.
- (g) A fund created under this section may be used only to finance the salary and benefits of a juvenile case manager employed under Article 45.056.

(h) A fund must be administered by or under the direction of the commissioners court or under the direction of the governing body of the municipality.

## **Costs Attendant to Intoxication Convictions**

### **Code of Criminal Procedure, Article 102.018**

(a) Except as provided by Subsection (d) of this article, on conviction of an offense relating to the driving or operating of a motor vehicle under Section 49.04, Penal Code, the court shall impose a cost of \$15 on a defendant if, subsequent to the arrest of the defendant, a law enforcement agency visually recorded the defendant with an electronic device. Costs imposed under this subsection are in addition to other court costs and are due whether or not the defendant is granted probation in the case. The court shall collect the costs in the same manner as other costs are collected in the case.

(b) Except as provided by Subsection (d) of this article, on conviction of an offense relating to the driving or operating of a motor vehicle punishable under Section 49.04(b), Penal Code, the court shall impose as a cost of court on the defendant an amount that is equal to the cost of an evaluation of the defendant performed under Section 13(a), Article 42.12, of this code. Costs imposed under this subsection are in addition to other court costs and are due whether or not the defendant is granted probation in the case, except that if the court determines that the defendant is indigent and unable to pay the cost, the court may waive the imposition of the cost.

(c)(1) Except as provided by Subsection (d) of this article, if a person commits an offense under Chapter 49, Penal Code, and as a direct result of the offense the person causes an incident resulting in an accident response by a public agency, the person is liable on conviction for the offense for the reasonable expense to the agency of the accident response. In this article, a person is considered to have been convicted in a case if:

- (A) sentence is imposed;
- (B) the defendant receives probation or deferred adjudication; or
- (C) the court defers final disposition of the case.

(2) The liability authorized by this subsection may be established by civil suit; however, if a determination is made during a criminal trial that a person committed an offense under Chapter 49, Penal Code, and as a direct result of the offense the person caused an incident resulting in an accident response by a public agency, the court may include the obligation for the liability as part of the judgment. A judgment that includes such an obligation is enforceable as any other judgment.

(3) The liability is a debt of the person to the public agency, and the public agency may collect the debt in the same manner as the public agency collects an express or implied contractual obligation to the agency.

(4) A person's liability under this subsection for the reasonable expense of an accident response may not exceed \$1,000 for a particular incident. For the purposes of this subdivision, a reasonable expense for an accident response includes only those costs to the public agency arising directly from an accident response to a particular incident, such as the cost of providing police, fire-fighting, rescue, ambulance, and emergency medical services at the scene of the incident and the salaries of the personnel of the public agency responding to the incident.

- (5) A bill for the expense of an accident response sent to a person by a public agency under this subsection must contain an itemized accounting of the components of the total charge. A bill that complies with this subdivision is prima facie evidence of the reasonableness of the costs incurred in the accident response to which the bill applies.
- (6) A policy of motor vehicle insurance delivered, issued for delivery, or renewed in this state may not cover payment of expenses charged to a person under this subsection.
- (7) In this subsection, “public agency” means the state, a county, a municipality district, or a public authority located in whole or in part in this state that provides police, fire-fighting, rescue, ambulance, or emergency medical services.
- (d) Subsections (a), (b), and (c) of this article do not apply to an offense under Section 49.02 or 49.03, Penal Code.

### **Additional Costs Attendant to Intoxication Convictions: Emergency Medical Services, Trauma Facilities, and Trauma Care Systems**

#### **Code of Criminal Procedure, Article 102.0185**

- (a) In addition to the costs on conviction imposed by Articles 102.016 and 102.018, a person convicted of an offense under Chapter 49, Penal Code, except for Sections 49.02 and 49.031, shall pay \$100 on conviction of the offense.
- (b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred disposition or deferred adjudication for the offense.
- (c) Costs imposed under this article are collected in the same manner as other costs collected under Article 102.075.
- (d) The officer collecting the costs under this article shall keep separate records of the money collected and shall pay the money to the custodian of the municipal or county treasury.
- (e) The custodian of the municipal or county treasury shall:
- (1) keep records of the amount of money collected under this article that is deposited with the treasury under this article; and
  - (2) not later than the last day of the first month following each calendar quarter:
    - (A) pay the money collected under this article during the preceding calendar quarter to the comptroller; or
    - (B) if, in the calendar quarter, the custodian of the municipal or county treasury did not receive any money attributable to costs paid under this article, file a report with the comptroller stating that fact.
- (f) The comptroller shall deposit the funds received under this article to the credit of the account established under Section 773.006, Health and Safety Code.

### **Additional Costs Attendant to Certain Child Sexual Assault and Related Convictions**

#### **Code of Criminal Procedure, Article 102.0186**

- (a) A person convicted of an offense under Section 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26, Penal Code, shall pay \$100 on conviction of the offense.

(b) Costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county child abuse prevention fund. A fund designated by this subsection may be used only to fund child abuse prevention programs in the county where the court is located.

(d) The county child abuse prevention fund shall be administered by or under the direction of the commissioners court.

## **Costs on Conviction for Offenses Requiring DNA Testing**

### **Code of Criminal Procedure, Article 102.020**

(a) A person shall pay \$250 as a court cost on conviction of an offense listed in Section 411.1471(a)(1), Government Code, and \$50 as a court cost on conviction of an offense listed in Section 411.1471(a)(3) of that code.

(b) The court shall assess and make a reasonable effort to collect the cost due under this article whether or not any other court cost is assessed or collected.

(c) For purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed; or

(2) the defendant receives community supervision or deferred adjudication.

(d) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county treasury.

(e) The custodian of a county treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county may retain 10 percent of the funds collected under this article by an officer of the county as a collection fee if the custodian of the county treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit 35 percent of the funds received under this article in the state treasury to the credit of the state highway fund and 65 percent of the funds received under this article to the credit of the criminal justice planning account in the general revenue fund.

(i) Funds collected under this article are subject to audit by the comptroller.

## **Administrative Fee**

### **Code of Criminal Procedure, Article 102.072**

An officer listed in Article 103.003 or a community supervision and corrections department may assess an administrative fee for each transaction made by the officer or department

relating to the collection of fines, fees, restitution, or other costs imposed by the court. The fee may not exceed \$2 for each transaction. This article does not apply to a transaction relating to the collection of child support.

## **Collection Contracts**

### **Code of Criminal Procedure, Article 103.0031**

(a) The commissioners court of a county or the governing body of a municipality may enter into a contract with a private attorney or a public or private vendor for the provision of collection services for one or more of the following items:

(1) debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by:

(A) a court serving the county or a court serving the municipality, as applicable; or

(B) a hearing officer serving the municipality under Chapter 682, Transportation Code;

(2) amounts in cases in which the accused has failed to appear:

(A) as promised under Subchapter A, Chapter 543, Transportation Code, or other law;

(B) in compliance with a lawful written notice to appear issued under Article 14.06(b) or other law;

(C) in compliance with a lawful summons issued under Article 15.03(b) or other law;

(D) in compliance with a lawful order of a court serving the county or municipality; or

(E) as specified in a citation, summons, or other notice authorized by Section 682.002, Transportation Code, that charges the accused with a parking or stopping offense; and

(3) false alarm penalties or fees imposed by a county under Chapter 118 or 233, Local Government Code, or by a municipality under a municipal ordinance.

(b) A commissioners court or governing body of a municipality that enters into a contract with a private attorney or private vendor under this article may authorize the addition of a collection fee in the amount of 30 percent on each item described in Subsection (a) that is more than 60 days past due and has been referred to the attorney or vendor for collection. The collection fee does not apply to a case that has been dismissed by a court of competent jurisdiction or to any amount that has been satisfied through time-served credit or community service. The collection fee may be applied to any balance remaining after a partial credit for time served or community service if the balance is more than 60 days past due. Unless the contract provides otherwise, the court shall calculate the amount of any collection fee due to the governmental entity or to the private attorney or private vendor performing the collection services and shall receive all fees, including the collection fee. With respect to cases described by Subsection (a)(2), the amount to which the 30 percent collection fee applies is:

(1) the amount to be paid that is communicated to the accused as acceptable to the court under its standard policy for resolution of the case, if the accused voluntarily agrees to pay that amount; or

(2) the amount ordered paid by the court after plea or trial.

- (c) The governing body of a municipality with a population of more than 1.9 million may authorize the addition of collection fees under Subsection (b) for a collection program performed by employees of the governing body.
- (d) A defendant is not liable for the collection fees authorized under Subsection (b) if the court of original jurisdiction has determined the defendant is indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs.
- (e) If a county or municipality has entered into a contract under Subsection (a) and a person pays an amount that is less than the aggregate total to be collected under Subsections (a) and (b), the allocation to the comptroller, the county or municipality, and the private attorney or vendor shall be reduced proportionately.
- (f) An item subject to collection services under Subsection (a) and to the additional collection fee authorized by Subsection (b) is considered more than 60 days past due under Subsection (b) if it remains unpaid on the 61<sup>st</sup> day after the following appropriate date:
- (1) with respect to an item described by Subsection (a)(1), the date on which the debt, fine, fee, forfeited bond, or court cost must be paid in full as determined by the court or hearing officer;
  - (2) with respect to an item described by Subsection (a)(2), the date by which the accused promised to appear or was notified, summoned, or ordered to appear; or
  - (3) with respect to an item described by Subsection (a)(3), the date on which a penalty or fee is due under a rule or order adopted under Chapter 233, Local Government Code, or an ordinance, policy, procedure, or rule of a municipality.
- (g) A county or municipality that enters into a contract under Subsection (a) may not use the additional 30 percent collection fee authorized by Subsection (b) for any purpose other than compensating the private attorney or private vendor who earns the fee.
- (h) This section does not apply to the collection of commercial bail bonds.
- (i) The commissioners court of a county or the governing body of a municipality may enter into a contract as described in this article to collect a debt incurred as a result of the commission of a criminal or civil offense committed before the effective date of this subsection. The collection fee does not apply to a debt collected pursuant to a contract entered into under this subsection.
- (j) A communication to the accused person regarding the amount of payment that is acceptable to the court under the court's standard policy for resolution of a case must include a notice of the person's right to enter a plea or go to trial on any offense charged.

## **Juvenile Probation Diversion Fund**

### **Family Code, Section 54.0411**

- (a) If a disposition hearing is held under Section 54.04 of this code, the juvenile court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay a fee as cost of court of \$20.
- (b) Orders for the payment of fees under this section may be enforced as provided by Section 54.07 of this code.
- (c) An officer collecting costs under this section shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the county treasury.

(d) Each officer collecting court costs under this section shall file the reports required under Article 103.005, Code of Criminal Procedure. If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(e) The custodian of the county treasury may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and not later than the last day of the month following each calendar quarter shall send to the comptroller of public accounts the funds collected under this section during the preceding quarter. A county may retain 10 percent of the funds as a service fee and may retain the interest accrued on the funds if the custodian of a county treasury keeps records of the amount of funds on deposit collected under this section and remits the funds to the comptroller within the period prescribed under this subsection.

(f) Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the State Auditor.

(g) The comptroller shall deposit the funds in a special fund to be known as the juvenile probation diversion fund.

(h) The legislature shall determine and appropriate the necessary amount from the juvenile probation diversion fund to the Texas Juvenile Probation Commission for the purchase of services the commission considers necessary for the diversion of any juvenile who is at risk of commitment to the Texas Youth Commission. The Texas Juvenile Probation Commission shall develop guidelines for the use of the fund. The commission may not purchase the services if a person responsible for the child's support or a local juvenile probation department is financially able to provide the services.

## **Payment of Juvenile Delinquency Prevention Fees**

### **Family Code, Section 54.0461**

(a) If a child is adjudicated as having engaged in delinquent conduct that violates Section 28.08, Penal Code, the juvenile court shall order the child, parent, or other person responsible for the child's support to pay to the court a \$5 juvenile delinquency prevention fee as a cost of court.

(b) The court shall deposit fees received under this section to the credit of the county juvenile delinquency prevention fund provided for under Article 102.0171, Code of Criminal Procedure.

(c) If the court finds that a child, parent, or other person responsible for the child's support is unable to pay the juvenile delinquency prevention fee required under Subsection (a), the court shall enter into the child's case records a statement of that finding. The court may waive a fee under this section only if the court makes the finding under this subsection.

## **Salary Supplement from State for Certain County Judges**

### **Government Code, Section 26.006**

(a) A county judge is entitled to an annual salary supplement from the state of \$10,000 if at least 40 percent of the functions that the judge performs are judicial functions.

(b) To receive a supplement under Subsection (a), a county judge must file with the Office of Court Administration of the Texas Judicial System an affidavit stating that at least 40 percent

of the functions that the judge performs are judicial functions. The office of court administration shall send the affidavit to the comptroller.

(c) The commissioners court in a county with a county judge who is entitled to receive a salary supplement under this section may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

## **Additional Fees and Costs in Certain Statutory County Courts**

### **Government Code, Section 51.702**

(a) Except as provided by Subsection (g), in addition to all other fees authorized or required by other law, the clerk of a statutory county court shall collect a \$40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay \$15 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall deposit the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

(f) Subsections (a) – (d) and (g) – (k) apply only to fees and costs for a 12-month period beginning July 1 in a county in which the commissioners court:

(1) adopts a resolution authorizing the fees and costs under Subsections (a) and (b); and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the first 12-month period during which the fees and costs are to be collected.

(g) A resolution under Subsection (f) continues from year to year allowing the county to collect fees and costs under Subsections (a) and (b) under the terms of this section until the resolution is rescinded.

(h) A commissioners court that desires to rescind a resolution adopted under Subsection (f) must submit to the comptroller not later than June 1 preceding the beginning of the first day of the state fiscal year the commissioners court desires to rescind the resolution.

(i) A county that is not eligible to participate under Subsection (f) on July 1 of a year but is eligible to participate later in the year may submit a resolution meeting the requirements of Subsection (f) to the comptroller. The comptroller shall determine the date the county may begin to collect fees and costs under Subsections (a) and (b). A county that begins to collect fees and costs under Subsections (a) and (b) after July 1 is not eligible for a payment by the comptroller under Section 25.0015 until the 60<sup>th</sup> day after the date the comptroller determines the county may begin to collect fees and costs under Subsections (a) and (b).

(j) A clerk may not collect a fee under this section and under Section 51.701.

(k) Money collected under Subsections (a) and (b) after a county ceases to participate in the collection of additional fees and costs under Subsections (a) and (b) shall be remitted to the comptroller. The money shall be deposited in the judicial fund and shall be distributed to counties currently participating under this section in the manner described in Section 25.005.

(l) In a county in which court costs are not collected under Subsection (b), a person shall pay, in addition to other costs, \$15 as a court cost on conviction of any criminal offense in a statutory county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(m) Court costs due under Subsection (l) shall be collected in the same manner as other fees, fines, and costs are collected in the case. The clerk shall send the costs to the county treasurer or other person performing the duties of the county treasurer at least as frequently as monthly. The county treasurer or other person shall deposit the costs collected in the county treasury.

## **Additional Fees and Costs in Certain County Courts**

### **Government Code, Section 51.703**

(a) In addition to all other fees authorized or required by other law, the clerk of a county court with a judge who is entitled to an annual salary supplement from the state under Section 26.006 shall collect a \$40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay \$15 as a court cost on conviction of any criminal offense in a county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall deposit the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

(f) A clerk may not collect a fee under this section and under Section 51.702(a).

## **Additional Fees in Certain Statutory Probate Courts**

### **Government Code, Section 51.704**

(a) Except as provided by Subsection (f), in addition to all other fees authorized or required by other law, the clerk of a statutory probate court shall collect a \$40 filing fee in each probate, guardianship, mental health, or civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(c) The clerk shall deposit the fees collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(d) Section 51.320 applies to a fee collected under this section.

(e) This section applies only to fees for a 12-month period beginning July 1 in a county in which the commissioners court:

(1) adopts a resolution authorizing the fees under this section; and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution under Subsection (e) continues from year to year allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) A commissioners court that desires to rescind a resolution adopted under Subsection (e) must submit to the comptroller not later than June 1 preceding the beginning of the first day of the state fiscal year a resolution stating the commissioners court's desire to rescind the resolution.

(h) A county that is not eligible to participate under Subsection (e) on July 1 of a year but is eligible to participate later in the year may submit a resolution meeting the requirements of Subsection (e) to the comptroller. The comptroller shall determine the date the county may begin to collect fees under this section. A county that begins to collect fees under this section after July 1 is not eligible for a payment by the comptroller under Section 25.00211 until the 60<sup>th</sup> day after the date the comptroller determines the county may begin to collect fees under this section.

(i) A clerk may not collect a fee under this section and under Section 51.701 or 51.702.

## **Criminal and Civil Fees Payable to the Comptroller**

### **Local Government Code, Section 133.001 – Purpose**

The purpose of this chapter is to consolidate and standardize:

(1) collection of fees in criminal and civil matters by:

(A) an officer of a court for deposit in a county or municipal treasury; or

(B) an officer of a county or municipality for deposit in the county or municipal treasury, as appropriate;

(2) remittance of those fees to the comptroller as required by this chapter and other law; and

(3) distribution of those fees by the comptroller to proper accounts and funds in the state treasury.

### **Local Government Code, Section 133.002 – Definitions**

In this chapter:

(1) "Fee" means:

(A) a criminal fee listed under Section 133.003;

(B) a civil fee listed under Section 133.004.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

(3) "Treasurer" means the custodian of money in a municipal or county treasury, as appropriate.

### **Local Government Code, Section 133.003 – Criminal Fees**

This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;
- (7) fines on conviction imposed under Section 621.506(g), Transportation Code;
- (8) the fee imposed under Article 102.0045, Code of Criminal Procedure; and
- (9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund.

### **Local Government Code, Section 133.051 – Collection and Remittance of Fees**

A municipality or county shall collect, record, account for, and remit to the comptroller all fees in the manner provided by this subchapter.

### **Local Government Code, Section 133.052 – Deposit of Fees**

- (a) An officer collecting a fee in a case in municipal court shall deposit the money in the municipal treasury.
- (b) An officer collecting a fee in a justice, county, or district court shall deposit the money in the county treasury.
- (c) A municipal or county clerk collecting a fee shall deposit the money in the municipal or county treasury, as appropriate.

### **Local Government Code, Section 133.053 – Interest-bearing Account**

- (a) The treasurer may deposit fees in an interest-bearing account.
- (b) The municipality or county may retain any interest accrued on the money the treasurer deposited in the treasury if the treasurer remits the funds to the comptroller within the period prescribed by Section 133.055(a).

### **Local Government Code, Section 133.054 – Records**

- (a) An officer or clerk collecting a fee shall keep a record of the money collected.
- (b) The treasurer shall keep a record of the money collected and on deposit in the treasury.

### **Local Government Code, Section 133.055 – Quarterly Remittance of Fees to the Comptroller**

- (a) On or before the last day of the month following each calendar quarter, the treasurer shall:
  - (1) remit to the comptroller the money from all fees collected during the preceding quarter, except as provided by Section 133.058; and

- (2) submit to the comptroller the report required under Section 133.056 for criminal fees and Section 133.057 for civil fees.
- (b) If the treasurer does not collect any fees during a calendar quarter, the treasurer shall file the report required for the quarter in the regular manner. The report must state that no fees were collected. This subsection does not apply to fees collected under Sections 14 and 19, Article 42.12, Code of Criminal Procedure, or under Section 76.013, Government Code.

**Local Government Code, Section 133.056 – Quarterly Report for Criminal Fees**

- (a) On the last day of the month following a calendar quarter, the treasurer shall report the criminal fees collected for the preceding calendar quarter.
- (b) For fees collected for convictions of offenses committed on or after January 1, 2004, a municipality or county shall report the fees collected for a calendar quarter categorized according to the class of offense.
- (c) For fees collected for convictions of offenses committed before January 1, 2004, a municipality or county shall report the total of fees collected for a calendar quarter.

**Local Government Code, Section 133.058 – Portion of Fee Retained**

- (a) Except as provided by this section, a municipality or county may retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).
- (b) A municipality or county may retain an amount greater than 10 percent of the money collected from fees if retention of the greater amount is authorized by law.
- (c) A county may retain five percent of the money collected as a service fee on the basic civil legal service for indigents filing fee.
- (d) A county may not retain a service fee on the collection of a fee:
- (1) for the judicial fund; or
  - (2) under Sections 14 and 19, Article 42.12, Code of Criminal Procedure.
- (e) A municipality or county may not retain a service fee if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county may continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

**Local Government Code, Section 133.059 – Audit**

- (a) The comptroller may audit the records of a county or municipality relating to fees collected under this chapter.
- (b) Money spent from fees collected under this chapter is subject to audit by the state auditor.

**Local Government Code, Section 133.101 – Meaning of Conviction**

In this subchapter, a person is considered to have been convicted in a case if:

- (1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;
- (2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

**Local Government Code, Section 133.102 – Consolidated Fees on Conviction**

(a) A person convicted of an offense shall pay as a court cost, in addition to all other costs:

- (1) \$133 on conviction of a felony;
- (2) \$83 on conviction of a Class A or Class B misdemeanor; or
- (3) \$40 on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.

(b) The court costs under Subsection (a) shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The money collected under this section as court costs imposed on offenses committed on or after January 1, 2004, shall be allocated according to the percentages provided in Subsection (e).

(d) The money collected as court costs imposed on offenses committed before January 1, 2004, shall be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately.

(e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

- (1) abused children’s counseling – 0.0088 percent;
- (2) crime stoppers assistance – 0.2581 percent;
- (3) breath alcohol testing – 0.5507 percent;
- (4) Bill Blackwood Law Enforcement Management Institute – 2.1683 percent;
- (5) law enforcement officers standards and education – 5.0034 percent;
- (6) comprehensive rehabilitation – 5.3218 percent;
- (7) operator’s and chauffeur’s license – 11.1426 percent;
- (8) criminal justice planning – 12.5537 percent;
- (9) an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University – 1.2090 percent;
- (10) compensation to victims of crime fund – 37.6338 percent;
- (11) fugitive apprehension account – 12.0904 percent;
- (12) judicial and court personnel training fund – 4.8362 percent;
- (13) an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center Account – 1.2090 percent; and
- (14) fair defense account – 6.0143 percent.

(f) Of each dollar credited to the law enforcement officers standards and education account under Subsection (e)(5):

- (1) 33.3 cents may be used only to pay administrative expenses; and

(2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 1701, Occupations Code.

**Local Government Code, Section 133.103 – Time Payment Fee**

(a) A person convicted of an offense shall pay, in addition to all other costs, a fee of \$25 if the person:

(1) has been convicted of a felony or misdemeanor; and

(2) pays any part of a fine, court costs, or restitution on or after the 31<sup>st</sup> day after the date on which a judgment is entered assessing the fine, court costs, or restitution.

(b) Except as provided by Subsection (c-1), the treasurer shall send 50 percent of the fees collected under this section to the comptroller. The comptroller shall deposit the fees received to the credit of the general revenue fund.

(c) Except as provided by Subsection (c-1), the treasurer shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.

(c-1) The treasurer shall send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

(d) The treasurer shall deposit the remainder of the fees collected under this section in the general revenue account of the county or municipality.

**Local Government Code, Section 133.104 – Fees for Services of Peace Officers Employed by the State**

(a) Fees imposed under Article 102.011, Code of Criminal Procedure, for services performed by peace officers employed by the state shall be forwarded to the comptroller after deducting four-fifths of the amount of each fee received for a service performed under Subsection (a)(1) or (a)(2) of that article, in a manner provided by the comptroller.

(b) The comptroller shall credit fees received under Subsection (a) to the general revenue fund.

**Local Government Code, Section 133.105 – Fee for Support of Court-Related Purposes**

(a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to all other costs, a fee of \$4 to be used for court-related purposes for the support of the judiciary.

(b) The treasurer shall deposit 60 cents of each fee collected under this section in the general fund of the municipality or county to promote the efficient operation of the municipal or county courts and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the courts.

(c) The treasurer shall remit the remainder of the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall deposit the fees in the judicial fund.

## **Court Costs**

### **Transportation Code, Section 542.403**

(a) In addition to other costs, a person convicted of a misdemeanor under this subtitle shall pay \$3 as a cost of court.

(b) The officer who collects a cost under this section shall:

(1) deposit in the municipal treasury a cost collected in a municipal court case; and

(2) deposit in the county treasury a cost collected in a justice court case or in a county court case, including a case appealed from a justice or municipal court.

(c) In this section, “conviction” has the meaning assigned by Section 133.101, Local Government Code.

## **State Traffic Fine**

### **Transportation Code, Section 542.4031**

(a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay \$30 as a state traffic fine. The person shall pay the state traffic fine when the person enters the person’s plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

(1) a sentence is imposed on the person;

(2) the court defers final disposition of the person’s case; or

(3) the person is placed on community supervision, including deferred adjudication community supervision.

(b) An officer collecting a state traffic fine under this section in a case in municipal court shall keep separate records of the money collected and shall deposit the money in the municipal treasury.

(c) An officer collecting a state traffic fine under this section in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the county treasury.

(d) Each calendar quarter, an officer collecting a state traffic fine under this section shall submit a report to the comptroller. The report must comply with Articles 103.005 (c) and (d), Code of Criminal Procedure.

(e) The custodian of money in a municipal or county treasury may deposit money collected under this section in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.

(f) A municipality or county may retain five percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (e).

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 67 percent to the credit of the undedicated portion of the general revenue fund; and

(2) 33 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 67 percent of the money received under Subsection (e)(2) to the credit of the general revenue fund only until the total amount of the money deposited to the credit of the general revenue fund under Subsection (g)(1) and Section 780.002(b), Health and Safety Code, equals \$250 million for that year. If in any state fiscal year the amount received by the comptroller under those laws for deposit to the credit of the general revenue fund exceeds \$250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.

(i) Money collected under this section is subject to audit by the comptroller. Money spent is subject to audit by the state auditor.

## **Child Passenger Safety Seat Systems; Offense**

### **Transportation Code, Section 545.412**

(a) A person commits an offense if the person operates a passenger car or light truck and transports a child who is younger than five years of age and less than 36 inches in height and does not keep the child secured during the operation of the vehicle in a child passenger safety seat system according to the instructions of the manufacturer of the safety seat system.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

(c) It is a defense to prosecution under this section that the person was operating the vehicle in an emergency for a law enforcement purpose.

(d) Repealed by Acts 2003, 78<sup>th</sup> Leg., ch. 204, §8.01.

(e) This section does not apply to a person:

(1) operating a vehicle transporting passengers for hire, including third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or

(2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

(f) In this section:

(1) “Child passenger safety seat system” means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) “Passenger vehicle” means a passenger car, light truck, sport utility vehicle, truck, or truck tractor.

(3) “Safety belt” means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) “Secured,” in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment; or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

(g) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of this section on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Education Agency, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon’s Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(h) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality’s or county’s fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

## **Safety Belts; Offense**

### **Transportation Code, Section 545.413**

(a) A person commits an offense if the person:

(1) is at least 15 years of age;

(2) is riding in the front seat of a passenger vehicle while the vehicle is being operated;

(3) is occupying a seat that is equipped with a safety belt; and

(4) is not secured by a safety belt.

(b) A person commits an offense if the person:

(1) operates a passenger vehicle that is equipped with safety belts; and

(2) allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in the vehicle without requiring the child to be secured by a safety belt, provided the child is occupying a seat that is equipped with a safety belt.

(c) A passenger vehicle or a seat in a passenger vehicle is considered to be equipped with a safety belt if the vehicle is required under Section 547.601 to be equipped with safety belts.

(d) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$25 or more than \$50. An offense under Subsection (b) is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10<sup>th</sup> day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; or

(6) the person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more.

(f) The department shall develop and implement an educational program to encourage the wearing of safety belts and to emphasize:

(1) the effectiveness of safety belts and other restraint devices in reducing the risk of harm to passengers in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(g) In this section, “passenger vehicle,” “safety belt,” and “secured” have the meanings assigned by Section 545.412.

(h) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of Subsection (b) on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Education Agency, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon’s Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(i) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality’s or county’s fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of Subsection (b) of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

## **Offense of Operating or Loading Overweight Vehicle; Penalty; Defense**

### **Transportation Code, Section 621.506**

- (a) A person commits an offense if the person:
- (1) operates a vehicle or combination of vehicles in violation of Section 621.101, 622.012, 622.031, 622.133, 622.953, or 623.162; or
  - (2) loads a vehicle or causes a vehicle to be loaded in violation of Section 621.503.
- (b) An offense under this section is a misdemeanor punishable:
- (1) by a fine or not less than \$100 and not more than \$150;
  - (2) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500.
  - (3) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000.
  - (4) on conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3).
- (c) On conviction of a violation of an axle weight limitation, the court may assess a fine less than the applicable minimum prescribed by Subsection (b) if the court finds that when the violation occurred:
- (1) the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 621.101; and
  - (2) the gross weight of the vehicle did not exceed that maximum gross weight.
- (d) A judge or justice shall promptly report to the Department of Public Safety each conviction obtained in the judge's or the justice's court under this section. The Department of Public Safety shall keep a record of each conviction reported to it under this subsection.
- (e) If a corporation fails to pay the fine assessed on conviction of an offense under this section, the district or county attorney in the county in which the conviction occurs may file suit against the corporation to collect the fine.
- (f) A justice or municipal court has jurisdiction of an offense under this section.
- (g) Except as provided by Subsection (h), a governmental entity that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight shall send an amount equal to 50 percent of the fine to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.
- (h) If the offense described by Subsection (g) occurred within 20 miles of an international border, the entire amount of the fine shall be deposited for the purposes of road maintenance in:
- (1) the municipal treasury, if the fine was imposed by a municipal court; or
  - (2) the county treasury, if the fine was imposed by a justice court.

## **Denial of Renewal of License for Failure to Appear**

### **Transportation Code, Section 706.001 – Definitions**

In this chapter:

- (1) “Complaint” means a notice of an offense as described by Article 27.14(d) or 45.019, Code of Criminal Procedure.
- (2) “Department” means the Department of Public Safety.
- (3) “Driver’s license” has the meaning assigned by Section 521.001.
- (4) “Highway or street” has the meaning assigned by Section 541.302.
- (5) “Motor vehicle” has the meaning assigned by Section 541.201.
- (6) “Operator” has the meaning assigned by Section 541.001.
- (7) “Political subdivision” means a municipality or county.
- (8) “Public place” has the meaning assigned by Section 1.07, Penal Code.
- (9) “Traffic law” means a statute or ordinance, a violation of which is a misdemeanor punishable by a fine in an amount not to exceed \$1,000, that:
  - (A) regulates an operator’s conduct or condition while operating a motor vehicle on a highway or street, or in a public place;
  - (B) regulates the condition of a motor vehicle while it is being operated on a highway or street;
  - (C) relates to the driver’s license status of an operator while operating a motor vehicle on a highway or street; or
  - (D) relates to the registration status of a motor vehicle while it is being operated on a highway or street.

### **Transportation Code, Section 706.002 – Contract With Department**

- (a) A political subdivision may contract with the department to provide information necessary for the department to deny renewal of the driver’s license of a person who has failed to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the court in a matter involving any offense that a court has jurisdiction of under Chapter 4, Code of Criminal Procedure.
- (b) A contract under this section:
  - (1) must be made in accordance with Chapter 791, Government Code; and
  - (2) is subject to the ability of the parties to provide or pay for the services required under this contract.

### **Transportation Code, Section 706.003 – Warning; Citation**

- (a) If a political subdivision has contracted with the department, a peace officer authorized to issue a citation in the jurisdiction of the political subdivision shall issue a warning to each person to whom the officer issues a citation for a violation of a traffic law in the jurisdiction of the political subdivision.
- (b) The warning under Subsection (a):
  - (1) is in addition to any other warning required by law;
  - (2) must state in substance that if the person fails to appear in court as provided by law for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person’s driver’s license; and

(3) may be printed on the same instrument as the citation.

**Transportation Code, Section 706.004 – Denial of Renewal of Driver’s License**

(a) If a political subdivision has contracted under this article with the department, on receiving the necessary information from the political subdivision, the department may deny renewal of the person’s driver’s license for failure to appear based on a complaint or citation or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a).

(b) The information must include:

- (1) the name, date of birth, and driver’s license number of the alleged violator;
- (2) the nature and date of the alleged violation;
- (3) a statement that the person failed to appear as required by law or failed to satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a); and
- (4) any other information required by the department.

**Transportation Code, Section 706.005 – Clearance Notice to Department**

(a) A political subdivision shall notify the department that there is no cause to continue to deny renewal of a person’s driver’s license based on the person’s previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

- (1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;
- (2) the dismissal of the charges for which the warrant of arrest was issued or judgment arose;
- (3) the posting of bond or the giving of other security to reinstate the charges for which the warrant was issued;
- (4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or
- (5) other suitable arrangement to pay the fine and cost within the court’s discretion.

(b) The department may not continue to deny the renewal of the person’s driver’s license under this chapter after the department receives notice:

- (1) under Subsection (a);
- (2) that the person was acquitted of the charge on which the person failed to appear; or
- (3) from the political subdivision that the failure to appear report or court order to pay a fine or cost relating to the person:
  - (A) was sent to the department in error; or
  - (B) has been destroyed in accordance with the political subdivision’s records retention policy.

**Transportation Code, Section 706.006 – Payment of Administrative Fee**

(a) A person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$30 for each complaint

or citation reported to the department under this chapter, unless the person is acquitted of the charges for which the person failed to appear. The person shall pay the fee when:

- (1) the court enters judgment on the underlying offense reported to the department;
- (2) the underlying offense is dismissed; or
- (3) bond or other security is posted to reinstate the charge for which the warrant was issued.

(b) A person who fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner the court orders shall be required to pay an administrative fee of \$30.

(c) The department may deny renewal of the driver's license of a person who does not pay a fee due under this section until the fee is paid. The fee required by this section is in addition to any other fee required by law.

#### **Transportation Code, Section 706.007 – Records Relating to Fees; Disposition of Fees**

(a) An officer collecting a fee under Section 706.006 shall keep records and deposit the money as provided by Subchapter B, Chapter 133, Local Government Code.

(b) The custodian of the municipal or county treasury may deposit each fee collected under Section 706.006 as provided by Subchapter B, Chapter 133, Local Government Code.

(c) The custodian shall keep records of money received and disbursed under this section as provided by Subchapter B, Chapter 133, Local Government Code, and shall provide an annual report, in the form approved by the comptroller, of all money received and disbursed under this section to:

- (1) the comptroller;
- (2) the department; and
- (3) another entity as provided by interlocal contract.

(d) Of each fee collected under Section 706.006, the custodian of a municipal or county treasury shall:

- (1) send \$20 to the comptroller on or before the last day of each calendar quarter; and
- (2) deposit the remainder to the credit of the general fund of the municipality or county.

(e) Of each \$20 received by the comptroller, the comptroller shall deposit \$10 to the credit of the department to implement this chapter.

#### **Transportation Code, Section 706.008 – Contract With Private Vendor; Compensation**

(a) The department may contract with a private vendor to implement this chapter.

(b) The vendor performing the contract may be compensated by each political subdivision that has contracted with the department.

(c) Except for an action based on a citation issued by a peace officer employed by the department, the vendor may not be compensated with state money.

#### **Transportation Code, Section 706.009 – Vendor to Provide Customer Support Services**

(a) A vendor must establish and maintain customer support services as directed by the department, including a toll-free telephone service line to answer and resolve questions from persons who are denied renewal of a driver's license under this chapter.

(b) The vendor shall comply with terms, policies, and rules adopted by the department to administer this chapter.

### **Transportation Code, Section 706.010 – Use of Information Collected by Vendor**

Information collected under this chapter by a vendor may not be used by a person other than the department, the political subdivision, or a vendor as provided by this chapter.

### **Transportation Code, Section 706.011 – Liability of State or Political Subdivision**

(a) An action for damages may not be brought against the state or a political subdivision based on an act or omission under this chapter, including the denial of renewal of a driver's license.

(b) The state or political subdivision may not be held liable in damages based on an act or omission under this chapter, including the denial of renewal of a driver's license.

### **Transportation Code, Section 706.012 – Rules**

The department may adopt rules to implement this chapter.

## **Attorney General Opinion GA-147 (2004)**

### **Summary**

Article 45.041(b)(1) of the Code of Criminal Procedure authorizes a justice of the peace to order a convicted defendant to pay costs and fines due either as a lump sum or in installments, but it does not preempt the application of the long-standing costs-first allocation rule. Under the allocation rule, a county must allocate monies received from a defendant first to pay costs and then to pay a fine. If the monies received do not cover all of the costs, then the monies must be allocated to costs on a pro rata basis. If a justice of the peace has ordered installment payments, the total sum received must be allocated in accordance with the allocation rule.

If a private collector collects the costs and fines under article 103.0031 of the Code of Criminal Procedure, the private collector will receive thirty percent of the aggregate amount collected. Remaining monies must be allocated to costs first, on a pro rata basis, and then to the fine.

## **Attorney General Opinion DM-407 (1996)**

### **Summary**

Article 42.12, section 11 of the Code of Criminal Procedure prevails over other statutes requiring a convicted defendant to pay certain costs, fees, and fines. Of course, section 19(a) of article 42.12 requires the judge to fix a fee to be allocated towards the cost of providing facilities, equipment, and utilities for a community corrections facility.

Pursuant to article 42.12, section 11(a)(8) of the Code of Criminal Procedure, the court with jurisdiction over a convicted defendant who is being placed on community supervision may, but need not, impose upon the defendant a requirement that the defendant pay court costs that are otherwise statutorily required. A trial judge may order that fees collected from a defendant placed on community supervision be allocated entirely for the purposes set forth in article 42.12, section 19. The total amount of the fees allocated for the purposes articulated in section 19 may not exceed the maximum stated in that section, however. Any amount

collected that is greater than that permitted in section 19 must be allocated to other purposes the judge has found will protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Furthermore, the clerk of a sentencing court must allocate the payment made by the defendant who is placed on community supervision in accordance with the trial judge's order.