

BILL ANALYSIS

C.S.H.B. 3519
By: White
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that juvenile courts should be provided more guidelines for when it is appropriate to assess a child or other person court costs and fees. C.S.H.B. 3519 seeks to address this issue by reforming the law regarding the ability of a child, parent, or other person responsible for a child's support to pay juvenile probation fees or court costs and fees imposed by a juvenile court.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3519 amends the Family Code to remove the authorization for a juvenile board to adopt rules for the waiver of a deferred prosecution services fee for financial hardship and to instead require a juvenile probation officer or other designated officer of a juvenile court, before the officer may collect a deferred prosecution services fee from a parent or other person responsible for a child's support, to conduct an assessment to determine whether the payment of the fee, in whole or in part, would cause undue hardship. The bill requires a parent or other person responsible for the child's support to be given the opportunity to provide documentation that the household of the parent or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines or the parent, other person, or family of the parent or other person currently receives assistance or benefits under specified state and federal programs. The bill requires the probation officer or other designated officer to make a finding that the payment of a fee would cause undue hardship and waive the fee if the parent or other person provides such documentation. The bill requires the officer, in determining whether the fee would cause undue hardship for a parent or other person whose payment is not waived on such grounds, to consider whether the person could reasonably pay the required obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts. The bill requires the officer, if the officer so determines that the parent or other person is unable to pay the fee in whole or in part without experiencing undue hardship, to waive the fee or collect a reduced fee in an amount that the officer determines will not cause an undue hardship.

C.S.H.B. 3519 removes certain limitations on a juvenile court's authority to waive certain fees and instead requires a juvenile court, before the court may impose a fee or cost on a child, parent, or other person responsible for the child's support, to conduct an assessment to determine

whether the fee or cost would cause undue hardship. The bill requires the court to make a finding that the child, parent, or other person is unable to pay a fee or cost without experiencing undue hardship and waive the fee or cost if the parent or other person provides documentation that the household of the child, parent, or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines or the child, parent, or other person or family of the child, parent, or other person currently receives assistance or benefits under specified state and federal programs. The bill requires the court, in determining whether a fee or cost would cause undue hardship for a child, parent, or other person whose payment is not waived on such grounds, to consider whether the person could reasonably pay the court-ordered obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts. The bill requires the court, if the court so determines that the child, parent, or other person is unable to pay the fee or cost in whole or in part without experiencing undue hardship, to waive the fee or order the child, parent, or other person to pay a reduced fee or cost in an amount that the court finds would not cause an undue hardship. The bill prohibits the inability of the child, parent, or other person responsible for the child's support to pay any fee or cost related to the child's case from resulting in the child being denied access to a more favorable disposition of the child's case, programming, or treatment; the child's probation or supervision being extended; or additional punishment for the child.

C.S.H.B. 3519 establishes that Government Code provisions relating to the implementation of new or amended court costs and fees do not apply to the change in the amount of fees or court costs made by the bill.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3519 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 53.03(d), Family Code, is amended.

SECTION 2. Chapter 53, Family Code, is amended by adding Section 53.031 to read as follows:

Sec. 53.031. DEFERRED PROSECUTION SERVICES FEE. (a) Before a probation officer or other designated officer of the court may collect a deferred prosecution services fee from a parent or other person responsible for the child's support under Section 53.03(d), the officer shall conduct an assessment to determine whether the payment of the fee, in whole or in part, would cause undue hardship.

(b) The probation officer or other designated officer of the court shall make a finding that the payment of a fee would

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Chapter 53, Family Code, is amended by adding Section 53.031 to read as follows:

Sec. 53.031. DEFERRED PROSECUTION SERVICES FEE. (a) Before a probation officer or other designated officer of the court may collect a deferred prosecution services fee from a parent or other person responsible for the child's support under Section 53.03(d), the officer shall conduct an assessment to determine whether the payment of the fee, in whole or in part, would cause undue hardship.

(b) A parent or other person responsible for the child's support must be given the opportunity to provide documentation that:

cause undue hardship and waive the fee under Section 53.03(d) if the court finds that:

(1) the parent, other person, or family of the parent or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines; or

(2) the parent, other person, or family of the parent or other person currently receives assistance or benefits under:

(A) the child health plan program under Chapter 62, Health and Safety Code;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) the Temporary Assistance for Needy Families program; or

(F) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786.

(c) In determining whether the fee would cause undue hardship for a parent or other person whose payment is not waived under Subsection (b), the officer shall consider whether the person could reasonably pay the required obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts.

(d) If the probation officer or other designated officer of the court determines under Subsection (c) that the parent or other person is unable to pay the fee in whole or in part without experiencing undue hardship, the officer shall waive the fee or collect a reduced fee in an amount that the officer determines will not cause an undue hardship.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.021 to read as follows:

Sec. 54.021. COURT-ORDERED FEE,

(1) the household of the parent or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines; or

(2) the parent, other person, or family of the parent or other person currently receives assistance or benefits under:

(A) the child health plan program under Chapter 62, Health and Safety Code;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) the Temporary Assistance for Needy Families program; or

(F) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786.

(c) The probation officer or other designated officer of the court shall make a finding that the payment of a fee would cause undue hardship and waive the fee under Section 53.03(d) if the parent or other person provides the documentation under Subsection (b).

(d) In determining whether the fee would cause undue hardship for a parent or other person whose payment is not waived under Subsection (c), the officer shall consider whether the person could reasonably pay the required obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts.

(e) If the probation officer or other designated officer of the court determines under Subsection (d) that the parent or other person is unable to pay the fee in whole or in part without experiencing undue hardship, the officer shall waive the fee or collect a reduced fee in an amount that the officer determines will not cause an undue hardship.

SECTION 3. Chapter 54, Family Code, is amended by adding Section 54.021 to read as follows:

Sec. 54.021. COURT-ORDERED FEE OR

COST, OR RESTITUTION PAYMENT.

(a) Before a court may impose a fee, cost, or a restitution payment on a child, parent, or other person responsible for the child's support, the court shall conduct an assessment to determine whether the fee, cost, or restitution payment would cause undue hardship.

(b) The court shall make a finding that the child, parent, or other person is unable to pay a fee, cost, or restitution payment without experiencing undue hardship and waive the fee, cost, or payment if:

(1) the child, parent, or other person or family of the child, parent, or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines; or

(2) the child, parent, or other person or family of the child, parent, or other person currently receives assistance or benefits under:

(A) the child health plan program under Chapter 62, Health and Safety Code;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) the Temporary Assistance for Needy Families program; or

(F) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786.

(c) In determining whether a fee, cost, or restitution payment would cause undue hardship for a child, parent, or other person whose payment is not waived under Subsection (b), the court shall consider whether the person could reasonably pay the court-ordered obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts.

(d) A court that makes a finding under Subsection (c) that the child, parent, or other person is unable to pay the fee, cost, or restitution payment in whole or in part without experiencing undue hardship shall waive the fee or order the child, parent, or

COST.

(a) Before a court may impose a fee or cost on a child, parent, or other person responsible for the child's support, the court shall conduct an assessment to determine whether the fee or cost would cause undue hardship.

(b) The court shall make a finding that the child, parent, or other person is unable to pay a fee or cost without experiencing undue hardship and waive the fee or cost if the parent or other person provides documentation that:

(1) the household of the child, parent, or other person earns not more than 125 percent of the income standards established by applicable federal poverty guidelines; or

(2) the child, parent, or other person or family of the child, parent, or other person currently receives assistance or benefits under:

(A) the child health plan program under Chapter 62, Health and Safety Code;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the supplemental nutrition assistance program under Chapter 33, Human Resources Code;

(E) the Temporary Assistance for Needy Families program; or

(F) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786.

(c) In determining whether a fee or cost would cause undue hardship for a child, parent, or other person whose payment is not waived under Subsection (b), the court shall consider whether the person could reasonably pay the court-ordered obligation after the person discharged the person's other important financial obligations, including payments for housing, food, utilities, necessary clothing, education, and preexisting debts.

(d) A court that makes a finding under Subsection (c) that the child, parent, or other person is unable to pay the fee or cost in whole or in part without experiencing undue hardship shall waive the fee or order the child, parent, or other person to pay a

other person to pay a reduced fee, cost, or restitution payment in an amount that the court finds would not cause an undue hardship.

(e) The inability of the child, parent, or other person responsible for the child's support to pay any fee, cost, or restitution payment related to the child's case may not result in:

(1) the child being denied access to a more favorable disposition of the child's case, programming, or treatment;

(2) the child's probation or supervision being extended; or

(3) additional punishment for the child.

SECTION 4. Section 54.032, Family Code, is amended.

SECTION 5. Section 54.0325, Family Code, is amended.

SECTION 6. Section 54.0404(b), Family Code, is amended.

SECTION 7. Section 54.041, Family Code, is amended by adding Subsections (a-1) and (c-1) to read as follows:

(a-1) The court shall waive or reduce the cost of attending treatment programs under Subsection (a)(4) if the court makes a finding under Section 54.021 that the parent or other person is unable to pay the cost in whole or in part without experiencing undue hardship.

(c-1) If a juvenile court orders a child to make restitution under Subsection (b) and makes a finding under Section 54.021 that the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution without experiencing undue hardship, the court may order the child to perform a specific number of hours of community service to satisfy all or part of the restitution.

SECTION 8. Section 54.0411, Family Code, is amended.

SECTION 9. Section 54.046(c), Family Code, is amended to read as follows:

(c) If a juvenile court orders a child to make restitution under Subsection (a) and makes a finding under Section 54.021 that the child,

reduced fee or cost in an amount that the court finds would not cause an undue hardship.

(e) The inability of the child, parent, or other person responsible for the child's support to pay any fee or cost related to the child's case may not result in:

(1) the child being denied access to a more favorable disposition of the child's case, programming, or treatment;

(2) the child's probation or supervision being extended; or

(3) additional punishment for the child.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Section 54.041, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The court shall waive or reduce the cost of attending treatment programs under Subsection (a)(4) if the court makes a finding under Section 54.021 that the parent or other person is unable to pay the cost in whole or in part without experiencing undue hardship.

SECTION 8. Same as introduced version.

No equivalent provision.

child's parent, or other person responsible for the child's support is financially unable to make the restitution payment in whole or in part without experiencing undue hardship, the court may order the child to perform a specific number of hours of community service, in addition to the hours required under Subsection (d), to satisfy all or part of the restitution.

SECTION 10. Section 54.0461(c), Family Code, is amended.

SECTION 11. Section 54.0462(c), Family Code, is amended.

SECTION 12. Section 54.047(f), Family Code, is amended.

SECTION 13. Section 54.048, Family Code, is amended by adding Subsection (c) to read as follows:

(c) If a juvenile court orders a child to make restitution under Subsection (a) and makes a finding under Section 54.021 that the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution in whole or in part without experiencing undue hardship, the court may order the child to perform a specific number of hours of community service to satisfy all or part of the restitution.

SECTION 14. Section 54.0481(b), Family Code, is amended to read as follows:

(b) If a juvenile court orders a child to make restitution under Subsection (a) and makes a finding under Section 54.021 that the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution without experiencing undue hardship, the court may order the child to perform a specific number of hours of community service to satisfy all or part of the restitution.

SECTION 15. Section 54.049(b), Family Code, is amended to read as follows:

(b) If a juvenile court orders a child to make restitution under Subsection (a) and the court makes a finding under Section 54.021 that the child is [financially] unable to make the restitution in whole or in part

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

No equivalent provision.

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without experiencing undue hardship, the court may ~~order~~:

(1) order the child to perform a specific number of hours of community service to satisfy all or part of the restitution; ~~or~~

(2) if the court makes a finding under Section 54.021 that a parent or other person responsible for the child's support is able to make the restitution in the amount described by Subsection (a) without experiencing undue hardship, order the parent or other person to make restitution for the full amount; or

(3) if the court makes a finding under Section 54.021 that the parent or other person is unable to make the restitution in the full amount described by Subsection (a) without experiencing undue hardship but is able to make the restitution in a lesser amount without experiencing undue hardship, order the parent or other person to make restitution in the lesser amount.

SECTION 16. Section 54.06, Family Code, is amended.

SECTION 17. Section 54.061(d), Family Code, is amended.

SECTION 18. The changes in law made by this Act apply only to a fee, cost, or other payment imposed on or after the effective date of this Act. A fee, cost, or other payment imposed before the effective date of this Act is governed by the law in effect on the date the fee, cost, or payment was imposed, and the former law is continued in effect for that purpose.

SECTION 19. Section 51.607, Government Code, does not apply to the change in the amount of fees or court costs made by this Act.

SECTION 20. This Act takes effect September 1, 2017.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.

SECTION 16. Same as introduced version.