

- SUBJECT:** Increasing certain county court security fees
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 7 ayes — W. Smith, Naishtat, Bolton, Farabee, Heflin, Leibowitz, T. Smith
- 0 nays
- 2 absent — Coleman, Harless
- WITNESSES:** For — Donald Lee, Texas Conference of Urban Counties; Craig Pardue, Dallas County
- Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 102.017 allows county, district, and justice courts to levy a fee from convicted defendants to pay for court security costs. The funds collected for a county, district, or justice court must be deposited into a courthouse security fund, which may be used only for security personnel, services, and items necessary for operating the court. Currently, defendants convicted of felonies in district court pay a \$5 security fee; defendants convicted of misdemeanor offenses in a county court, county court at law, or district court must pay a \$3 fee; and defendants convicted of misdemeanor offenses in justice courts not housed in the county courthouse must pay a \$4 fee.
- DIGEST:** HB 3549 would increase the court security fee for defendants convicted of felonies in district court to \$10 and allow the clerk to collect this fee upon conviction. The bill also would increase the court security fee for defendants convicted of misdemeanor offenses in justice courts not housed in the county courthouse to \$8 and allow the clerk to collect this fee upon conviction.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 3549 would increase courthouse security fees that have not been raised since 1993. The cost of security has risen in that time due to inflation, attacks on judges and courthouse personnel, terrorist attacks, and other security concerns. An increase is needed to ensure that courthouses remain safe, especially in light of new and terrible threats to public institutions. The Legislature approved security fees to protect against violent outbursts by disgruntled litigants, a concern that remains relevant in light of several recent attacks on judges, their families, and courthouse personnel in Texas and around the country.

The Oklahoma City bombing and 9/11 terrorist attacks have changed security needs. Courthouses are targets for terrorism, and security efforts must focus on protecting buildings as well as the people inside. Not only are expensive screening devices, such as metal detectors, needed, but older courthouses may require extensive renovation to be made more secure. It is an unfortunate consequence of our times that it is necessary to raise more money to tighten security in public places.

This bill would impose a reasonable fee increase on felony and, in some cases, misdemeanor defendants. The increased fee for misdemeanor offenses would apply only to justice courts in buildings outside the county courthouse. The security fee for felony convictions, however, would be mandatory in all district courts. All funds would be used to fund security.

Current fee revenue is not sufficient because many criminal defendants are indigent or otherwise unable to pay fines, while costs of providing security continue to increase by roughly 4 percent a year. Increasing the costs of filing would not reduce access to the courts because filing a case would remain relatively inexpensive, even after a \$5 or \$4 increase. Moreover, courts could waive fees for the indigent or allow someone to do community service or jail time in lieu of fees.

**OPPONENTS
SAY:**

This bill would create an unfair burden in doubling courthouse security fees for both felony and misdemeanor offenses. While the fee for felony defendants has not increased since 1993, this bill also would double the fee for misdemeanor defendants after only two years because the misdemeanor fee for justice courts was created in 2005 by the 79th Legislature. In addition, it is the responsibility of counties to provide courthouse security, but this bill would shift even more of that burden to those who were convicted of offenses. Court costs in Texas already are excessively high, creating a particular burden for the poor. Fee increases

could reduce access to the courts because fewer people would be able to afford the costs of litigation. These fees essentially would be another tax to be imposed in addition to a clerk's fee, law library fee, mediation fund fee, record management fee, appellant fund fee, court reporter service fee, and more. A \$10 and \$8 fee might seem insignificant, but the Legislature should consider carefully the total aggregate impact that these "small" fees can have on someone involved in a case. Security is important, but so is minimizing the tax burden shouldered by Texas citizens who must use the courts.

OTHER
OPPONENTS
SAY:

The \$10 and \$8 courthouse security fees recommended by this bill still would not raise enough money for some courts to cover their security costs. Courts should be authorized to set security fees at the level necessary to recover their security costs.

NOTES:

During the 2005 regular session, HB 1934 by Gonzalez Toureilles, et al. created a \$4 courthouse security fee for defendants convicted of misdemeanor offenses in justice courts not housed in the county courthouse.

According to the fiscal note, which assumes a 33 percent collection rate on 113,180 felony convictions in district courts and 1,603,194 misdemeanor convictions in justice courts, the courthouse security fund fees in district courts could generate an additional \$188,445 annually while justice courts fees could generate an additional \$2,135,454 annually.