

**SUBJECT:** Increasing and expanding the applicability of court costs for drug courts

**COMMITTEE:** Criminal Jurisprudence — Committee substitute recommended

**VOTE:** 10 ayes — Gallego, Christian, Fletcher, Hodge, Kent, Miklos, Moody, Pierson, Riddle, Vo

0 nays

1 absent — Vaught

**WITNESSES:** For — Al Alonso; Christine Casarez; David Hodges; Ana Yanez Correa, Texas Criminal Justice Coalition; (*Registered, but did not testify:* George Alcantar; Katrina Daniels, Bexar County District Attorney's Office; Mark Mendez, Tarrant County; Hector Perez; Roberto Ruiz; Joann Salazar; Cindy Segovia, Bexar County)

Against — Amanda Marzullo, Texas Fair Defense Project

**BACKGROUND:** Code of Criminal Procedure, art. 102.0178(a) imposes a fee of \$50 as a court cost upon conviction of an offense punishable as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) or higher for an intoxication-related offense under Penal Code, ch. 49 or a drug offense under Health and Safety Code, ch. 481. Of that \$50, 10 percent may be kept by the county that collects it as a service fee, 50 percent may be kept by the county to develop or maintain drug court programs, and 40 percent is forwarded to the state. At the end of fiscal 2008, \$1.3 million had been collected under the court cost for drug courts.

Code of Criminal Procedure, sec. 102.021(3) requires that a person convicted of an offense must pay a \$50 fee for the service of a peace officer for executing or processing an issued arrest warrant or *capias*.

Code of Criminal Procedure, art. 43.105 defines *capias pro fine* as a writ that is issued by a court having jurisdiction of a case after judgment and sentence for unpaid fines and costs and directs a peace officer to arrest a person convicted of an offense and bring the arrested person before that court immediately.

Government Code, sec. 102.0125 requires a person convicted of an intoxication offense under Penal Code, ch. 49 or a drug offense under Health and Safety Code, ch. 481 to pay a \$50 fee.

DIGEST:

CSHB 666 would increase the court cost to fund drug court programs from \$50 to \$60 and would expand the list of crimes upon which, on conviction, the increased fee would be imposed.

CSHB 666 would amend Penal Code, art. 102.0178 by adding assault, offenses against the family, arson and criminal mischief, robbery, burglary and criminal trespass, theft, fraud, and weapons violations to the list of offenses would be eligible for the court cost for drug court programs and would increase the cost from \$50 to \$60.

CSHB 666 would amend Government Code, sec. 102.021 to include a \$60 court cost for certain convictions under the Penal Code and the Health and Safety Code to help fund drug court programs.

CSHB 666 would amend Code of Criminal Procedure, sec. 102.021 to add the execution or processing of a *capias pro fine* to the list of fees that would have to be paid to a court by an offender for services of a peace officer. CSHB 666 would further amend sec. 102.021 by including a \$60 court cost upon conviction of certain Penal Code and Health and Safety Code offenses.

CSHB 666 would repeal Government Code, sec. 102.0215, concerning the \$50 fee for conviction of certain intoxication and drug offenses.

CSHB 666 would change the name of Code of Criminal Procedure, art. 102.0178 from COSTS ATTENDANT TO CERTAIN INTOXICATION AND DRUG CONVICTIONS to COURT COSTS; DRUG COURT PROGRAMS.

The bill would take effect on September 1, 2009.

SUPPORTERS  
SAY:

CSHB 666 would increase funding for drug courts. These specialty courts are among the best investments that government can make in the criminal justice system. Drug court programs help save criminal justice funds and slow prison overcrowding. On average, drug courts are ten times less expensive than incarceration. Furthermore, each dollar spent on drug courts yields \$4 in health care savings. Drug courts also free up valuable

prison beds for violent offenders by diverting eligible individuals from prison. This helps to slow the need for contracting for new prison or jail space. Drug courts lower recidivism rates by as much as 44 percent because they target addiction, the root cause of many crimes. Instead of isolating an offender in prison, drug courts force participants to confront their addiction and repair the damage they have done to themselves, their families, and their communities. Even those who fail to complete a drug court program are still significantly less likely to reoffend than those who have never participated.

There is high demand for drug courts. The Governor's Office distributed \$5.7 million in grants to local governments to establish and maintain drug courts in Texas during fiscal 2008-2009. This amount is slightly more than half of the \$10 million in requests the Governor's Office received for this grant money. There are over 90 drug courts in Texas, with many more in the planning stage.

It is appropriate to expand the kinds of crimes for which a court cost could be levied. A time-series analysis of New York crime and drug use found a causal relationship between drug usage and property-related felonies. The study found that certain property crimes — robbery, burglary, and motor vehicle theft — increased when there was an increase in drug use. Applying the court cost for drug court programs to property crimes would be appropriate because of the relationship between addiction and property crime.

This increase in the court cost and expansion in the kinds of crimes upon which the cost would be levied would be fully justified to reinforce the highly effective and efficient drug courts program. Increasing the funding for drug courts would address directly the burdens and obstacles that many offenders face as they attempt to rebuild their lives and reintegrate into society. Further, CSHB 666 would not supplant other funding sources. It would be one of many means of establishing and maintaining drug courts in Texas. Drug courts are so desperately needed that all funding sources should be considered and utilized.

**OPPONENTS  
SAY:**

CSHB 666 would apply court cost for the support of drug courts to crimes that are unrelated to drug and alcohol offenses. Current law appropriately applies the fee only to drug and alcohol offenses as they are the crimes over which a drug court would have jurisdiction. CSHB 666 would disrupt the balance and narrow applicability of the court cost now allowed by

current law. Even if there was a link between drug use and property crimes, CSHB 666 would impose an additional court cost to specific cases regardless of ties to drug and alcohol addiction. Further, CSHB 666 is so broad that it would cover categories of crimes for which there may no causal link between addiction and the crime in general.

While many drug courts are underfunded, increasing a court cost to fund them would be the wrong approach. A better method would be to fund these courts through a more standardized budgeting process. The state should give more direct aid to counties to establish and maintain these courts so that they would not have to rely on unpredictable court cost funds and would be able to oversee and treat more defendants. The federal stimulus package contains an additional \$63.9 million in federal funds for drug courts nationally. Instead of increasing the court costs and fees imposed on defendants, Texas should work to secure its fair share of these federal funds.

CSHB 666 would increase a court cost that is a “shall fee,” in that a court shall issue it and shall attempt to collect it. As such, a defendant is arrested once for the initial charge and could be arrested again for non-payment of the court cost. Only after the defendant was jailed a second time would a court be allowed to consider waiving the fee. The disruption caused by multiple trips to jail and the burden that court costs and fees place on the indigent and the poor hinder their efforts toward recovery and reintegration into society.

NOTES:

The committee substitute added assault, offenses against the family, arson and criminal mischief, robbery, burglary and criminal trespass, theft, fraud, and weapons violations to the list of Class B misdemeanors or higher for which a person would be required to pay a court cost of \$60 upon conviction.