

BILL ANALYSIS

Senate Research Center
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S.B. 452
By: Armbrister
Criminal Justice
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As Filed

DIGEST

Currently, there are mounting costs in some counties as a result of the high cost of prosecuting certain types of criminal cases. Many counties are not budgeted to deal with the cost of those cases; for example Bastrop County spent nearly \$300,000 on the county's first capital case in decades. S.B. 452 would establish a cost of court on criminal convictions and creates a fund for the payment of extraordinary costs of prosecution in certain counties.

PURPOSE

As proposed, S.B. 452 establishes a cost of court on criminal convictions and creates a fund for the payment of extraordinary costs of prosecution in certain counties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the criminal justice division of the governor's office in SECTION 1 (Article 102.085(e), Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 102, Code of Criminal Procedure, by adding Subchapter D, as follows:

SUBCHAPTER D. COURT COSTS FOR EXTRAORDINARY COSTS OF PROSECUTION FUND

Art. 102.081. COSTS. Requires a defendant convicted of a felony to pay as a cost of court \$5. Requires a person convicted of a misdemeanor, except as provided by Subsection (c), to pay as a cost of court \$1. Sets forth certain offenses that do not apply to this article. Requires the clerk of the court to collect at the time of sentencing, unless the defendant files a motion for a new trial or files an appeal, in which event the clerk shall collect the cost when the conviction is final. Authorizes the court to waive the cost if the court determines that the defendant is indigent.

Art. 102.082. RECORD OF COLLECTION. Requires the clerk of the court collecting costs to keep separate records of the funds collected and to deposit the funds in the county treasury.

Art. 102.083. REPORTS REQUIRED. Requires the clerk of the court collecting funds to file the report required under Article 103.005. Requires the report required for each quarter, if no funds have been collected, to be filed in the regular manner. Requires the report to state that no funds due were collected.

Art. 102.084. TRANSFER OF FUNDS TO COMPTROLLER. Authorizes the custodian of the county treasury to deposit the funds collected under this section into an interest-bearing account. Requires the custodian to keep records of the amount of funds on deposit with the custodian. Requires the custodian, on or before the last day of the month following each calendar quarter, to remit to the comptroller funds collected during the preceding quarter. Authorizes the county treasury to retain 10 percent of each cost collected as a service fee for the collection, and to retain all interest accrued on the funds collected if the custodian keeps a record of the amount of funds collected that are on deposit with the treasury and remits the funds to the comptroller within the prescribed period.

Art. 102.085. EXTRAORDINARY COSTS OF PROSECUTION FUND. Requires the

comptroller to deposit money received under this subchapter by the comptroller in an account in the general revenue fund to be known as the extraordinary costs of prosecution fund. Requires the legislature to appropriate money from the fund only to the criminal justice division (division) of the governor's office. Requires the division to distribute money received under this subsection as provided by this article. Sets forth conditions for a county with a population of less than 50,000 to be eligible to apply to the division for a distribution of money under this article. Requires the commissioners court to submit with an application under Subsection (b) a financial statement of the county that shows certain information regarding funds received, expenditures, and expenses for the fiscal year for which the application is made. Authorizes the division to distribute money only to an eligible county for reimbursement of certain expenses incurred. Prohibits the amount of the reimbursement to an eligible county from exceeding an amount equal to five percent of the difference between the total amount of funds received and the total amount of expenditures during the fiscal year for which the application is made. Authorizes the division to adopt a budget and rules for the distribution of money under this article.

Art. 102.086. AUDIT. Provides that all money collected under this subchapter is subject to audit by the comptroller. Provides that all money distributed to a county and its expenditure by the county are subject to audit by the state auditor.

SECTION 2. (a) Makes application of this Act prospective.

(b) Authorizes the commissioners court of a county to apply to the criminal justice division of the governor's office for a distribution of money, as added by this Act, on or after January 1, 2000.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.