

2018

Travis County Auditor's Office Review of Juvenile Probation Department Court Costs



Travis County Auditor's Office
Risk Evaluation & Consulting Division
12/21/2018

TRAVIS COUNTY
AUDITOR'S OFFICE

PATTI SMITH, CPA
COUNTY AUDITOR



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To: Estela Medina
Travis County Chief Juvenile Probation Officer

From: Patti Smith, CPA
Travis County Auditor

Date: December 21, 2018

Re: Review of Juvenile Probation Department's Court Costs

Scheduled as part of our statutory requirements, the Risk Evaluation and Consulting Division (REC) of the Travis County Auditor's Office has completed an examination of the Travis County Juvenile Probation Department (TCJPD). We conducted our examination in accordance with the applicable statutes governing the County Auditor's Office and those relating to County financial and accounting protocols. As a result of our examination, we are providing this report on our findings and recommendations.

BACKGROUND

TCJPD provides community protection from juvenile offender behavior and holds juvenile offenders accountable for the damage/harm they have inflicted as the result of their delinquent behavior. TCJPD also provides programs designed to help juveniles build on their strengths and develop the needed skills to avoid re-offending.

SCOPE OF EXAMINATION

The purpose of the examination was to determine if statutory requirements for assessing and waiving court costs and fees were met during the period October 1, 2014 through September 30, 2017.

EXAMINATION METHODOLOGY

Our work was based on a review of office records and on verbal and written representations from the Travis County Juvenile Probation Department. In regard to the written and verbal

representations made by TCJPD, unless otherwise noted in this report, office management maintains that the assertions we relied upon during this examination were correct to the best of their knowledge.

SUMMARY OF FINDINGS

During the period, TCJPD did not assess state court costs totaling at least \$970 and County probation fees of an indeterminate amount. This issue was noted in a prior examination of TCJPD (#14-33), dated October 5, 2015.

EXAMINATION TEAM

Joanne Englund, CPA, Financial Auditor VI
Travis Lee, Staff Auditor

CLOSING

This report is intended for the information and use of the TCJPD, the Auditor's Office, and County management. We greatly appreciate the cooperation and assistance received from TCJPD management and staff during this examination. Please contact our office if you have any questions or concerns regarding this report.



David Jungerman, CIA
Chief Assistant County Auditor II – REC
Division



Patti Smith, CPA
Travis County Auditor

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Examination File

BACKGROUND

TCJPD's Court Administration Division provides clerks, legal secretaries, and bailiffs for all Juvenile Court hearings held at the Gardner Betts Juvenile Center. Court Administration employees are deputized by the District Clerk and are responsible for accurately maintaining the court case record and all filed documents. They prepare certain court orders; process all pleadings, court orders, and other case-related filings; and are responsible for appointing counsel for indigent juveniles. The court tracking software is not integrated with the accounts receivable software, so there is a manual process in place to notify the Financial Services Division when juvenile billings are required. When court costs and fees are waived, there is no entry in the accounting system to record the fees being assessed and then waived.

The Texas Family Code requires Juvenile Court to assess certain costs of court and fees; however, if the Court finds that a child, parent, or other responsible person is unable to pay a fee or cost, the Court is required to enter a statement of that finding into the child's case records.

Because ability to pay is at issue, the indigence determination process is of primary importance. The Application to Request Appointed Counsel Form (ARAC) is used to determine juvenile indigence and eligibility for appointment of counsel. The potential results of this review are 1) the juvenile is eligible, 2) the juvenile is partially eligible, or 3) the juvenile is not eligible for an appointed attorney.

AREAS OF CONCERN

As previously mentioned, TCJPD is required by statute to assess up to four court costs and fees on juvenile cases (See Attachment A for details.). To verify compliance with the applicable statutes, we reviewed the applicable court activity and fee assessment details for the disposition hearings taking place during the three years ending September 30, 2017. In this review, we noted that TCJPD did not assess Juvenile Probation Diversion Fund Fees totaling \$800 and DNA Testing Fees totaling \$170, both of which were payable to the State, as well as an undetermined amount of County probation fees. These items are detailed below:

Juvenile Probation Diversion Fund Fee

When a disposition hearing is held, Juvenile Court is required to assess the \$20 Juvenile Probation Diversion Fee if the child/family/responsible person is financially able to pay it. In the period, 1,593 disposition hearings were held for TCJPD cases. Of these, there were 40 (3%) disposition hearings for which the juvenile was found to be able to afford at least a portion of their court costs and fees (including attorney fees), but the \$20 fee was not assessed. Since these fees are payable to the State, TCJPD has a potential liability to the state of \$800 (40 X \$20).

DNA Testing Fee

When a juvenile is adjudicated as having committed a felony that requires a DNA sample, Juvenile Court is required to assess a DNA Testing Fee if the child/parent/responsible party is financially able to pay the fee. The fee is \$50 if the juvenile is committed to a facility operated by or under contract with the Texas Juvenile Justice Department (TJJD); otherwise, the fee is \$34.

For the 40 disposition hearings for which the juvenile was deemed able to pay at least a portion of their court costs and fees (including attorney fees), there were ten offenses requiring the assessment of a DNA Testing Fee. Five (50%) of these ten DNA fees totaling \$170 were not assessed.

Juvenile Probation Fee

When a juvenile is placed on probation, Juvenile Court is required by statute to assess a \$15 probation fee each month, if the child/parent/responsible party is financially able to pay the fee. As previously noted, there were 40 disposition hearings held in the period for which the juvenile was found to be able to afford at least a portion of their court costs and fees (including attorney fees). Of these, 30 (75%) were placed on probation, none of which were assessed probation fees. Given the changeable nature of both probation terms and financial situations, we are unable to reasonably estimate the amount of County funds not assessed and collected for these items.

Juvenile Delinquency Prevention Fee (No findings)

When a child is adjudicated as having committed delinquent conduct that involves graffiti, Juvenile Court is required to assess a \$50 Juvenile Delinquency Prevention Fee if the child/parent/responsible person is financially able to pay the fee. TCJPD properly accounted for all eight of the juvenile cases involving graffiti adjudicated in the period.

Significance:

TCJPD is statutorily responsible for assessing, collecting, remitting, and/or waiving court costs in accordance with statute. Failure to comply with statute could result in a loss of County funds and/or a liability to the State.

Recommendation:

We recommend TCJPD implement a statutorily-compliant, consistent methodology for documenting indigence and waiving fees. For juveniles not deemed to be fully indigent, TCJPD should assess all applicable county and state court costs.

Management Response:

TCJPD's management response can be found in Attachments B through E of this report.

STATUTORY COURT COSTS AND FEES

The Family Code requires the assessment of the following fees when the juvenile/responsible party is financially able to pay them:

Section	Fee Type	Fee Amount	Ultimate Destination	Circumstances for Fee Assessment
54.061(a)	Probation	\$15/ month	County Special Revenue Fund	Child is placed on probation under Section 54.04(d)(1) of the Family Code (added 1979).
54.0411(a)	Juvenile Probation Diversion	\$20	Texas Comptroller	Disposition hearing is held under Section 54.04 of the Family Code (added 1987).
54.0461(a)	Juvenile Delinquency Prevention	\$50	County Special Revenue Fund	Child is adjudicated as having engaged in delinquent conduct that violates Section 28.08 (graffiti), of the Penal Code (added 2007).
54.0462(a)(1)	Offenses requiring DNA Testing	\$34/\$50	Texas Comptroller	Child is adjudicated as having committed a felony and a DNA sample is required under Section 54.0409 or other law. The fee is \$34, unless the child is committed to a Texas Juvenile Justice Department facility, in which case the fee is \$50 (added 2009).

The only statutory requirement for waiving the \$20 Juvenile Probation Diversion Fee is that the juvenile/responsible party is financially unable to pay. For the DNA, Probation, and Juvenile Delinquency Prevention Fees, the following specific statutory requirement must be met for the fees to be waived:

“If the court finds that a child, parent, or other person responsible for the child's support is unable to pay the . . . 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.”

TRAVIS COUNTY JUVENILE PROBATION DEPARTMENT

MANAGEMENT RESPONSE

The following is the Department's Management Response to the Auditor's Revenue and Internal Controls Auditing report. The Department is committed to establishing a statutorily-compliant, consistent methodology for documenting indigence and waiving fees whenever the Juvenile Court enters a finding into the records of a child's case of financial inability to pay fees or costs. This response includes newly created forms that are designed to improve the Department's determination of financial ability to pay, while addressing concerns highlighted in the Auditor's report. These forms, along with a newly updated dispositional order, constitute the Department's action plan in response to the Auditor's findings.

1. In an effort to improve how indigence is determined for families that become involved in the juvenile justice system, the Department is replacing its *Application Requesting Appointment of Counsel (ARAC)* form with a *Statement of Inability to Pay Costs of Court and Application Requesting Appointment of Counsel* form (Attachment C). This newly created form is modeled on a similar form approved by the Texas Supreme Court (*Statement of Inability to Afford Payment of Court Costs or an Appeal Bond*), which was created following amendments to Rule 145, Texas Rules of Civil Procedure, that became effective September 1, 2016. Rule 145 determines how court costs may be waived for adult indigent litigants. Under the amended rule, a statement that a party cannot afford court costs must either be sworn or signed under threatened perjury.

The Department's new *Statement of Inability to Pay Costs of Court* includes more detailed financial information as contained in the form that is now used for adult civil litigants, including a declaration that the financial information is provided under penalty of perjury and is true and correct. The Department expects that the updated form will assist JPOs in making more accurate financial assessments, while emphasizing to families that it is a criminal offense to falsify any financial information they provide. It is estimated that approximately 91% of the Juvenile Court involved families are determined to be indigent each year and will qualify for legal representation by the Travis County Juvenile Public Defender.

2. The Department's *Notice of Right to Hearing Regarding Court Costs and Fees* form was created for non-indigent families that would like an opportunity to demonstrate to the Court their inability to pay court-ordered costs or fees, perhaps due to changed financial circumstances (Attachment D). Use of the form is optional and families must submit *sufficient evidence* to the Court of their inability to pay in order to prevail. The form also puts families on notice that the Court may order them to pay certain costs and fees, and that if they fail to pay, they may be held in contempt of court.

3. With significant input from the Juvenile Court, the Department has also revised its dispositional orders to list the various court costs and fees that the Court “shall” order, while providing a clear method for the Court to enter its finding of inability to pay court costs/fees into the records of a child’s case (Attachment E). The revised orders also provide a bold warning to parents that they may be held in contempt if they fail to pay costs or fees as ordered. The Department believes the new dispositional orders will reinforce the legal presumption that the Court *shall* order payment of all costs and fees *unless* it makes a finding in the records of the case of financial inability to pay.
4. The Department’s Office of Court Administration provides technical and clerical coordination for the Juvenile Court, while also managing the Court’s juvenile records. Court Administration has developed updated Standard Operating Procedures (SOPs) to guide staff in the processing of various court fees and costs (Attachment F). The SOPs provide detailed guidance with regard to the process followed by the Juvenile Court in terms of the types of court costs and fees that will be ordered when families are financially able to pay. The SOPs also describe the procedure that staff, including Juvenile Probation Officers (JPOs), will follow in determining whether or not a family is able to pay costs of court or is entitled to a court-appointed attorney. Finally, the procedure describes steps the Department’s Finance Unit will take to collect fees and costs that have been ordered by the Court.

Additionally, the Department has updated its Caseworker Plus Case Management System to include a drop down menu that captures assessed or waived fees and costs. The Finance Unit will ensure that the statutory reporting requirements are followed and provide Probation Services and Court Administration with monthly balance summaries of fees or costs that are still owed to the Department.

Court Administration implemented the procedures outlined in the SOPs effective October 1, 2018.



98TH DISTRICT COURT

TRAVIS COUNTY JUVENILE COURT
2515 SOUTH CONGRESS AVENUE
AUSTIN, TEXAS 78767
(512) 854-7000
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RHONDA HURLEY

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(512) 854-3094

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Court Operations Officer
(512) 854-3094

ELIZABETH MEDINA

Court Clerk
(512) 854-9010

PATTY DAY

CINDII ALVAREZ
Official Court Reporter
(512) 854-9629

December 18, 2018

Patty Smith, CPA
County Auditor
Travis County
700 Lavaca
PO Box 1748
Austin, Texas 78767

Dear Ms. Smith,

The Department has provided a detailed plan to improve the processes and documentation pertaining to assessing fees and costs in juvenile court. Court administration worked closely with the courts to develop and implement the new plan effective October 1, 2018. As a judge who presides over these cases, I want to take this opportunity to present some additional data to supplement this response. I hope to put this issue in a bigger context as it pertains to juvenile justice.

As stated in the Department's response, approximately 91% of Travis County youth involved in the juvenile justice system are indigent. Conversely, only 9% are able to partially or fully pay costs and fees. Many of those families may also have an obligation to pay restitution to the victims of crime. Since restitution is a critical component of restorative justice for both the victim and the youth, that is often a consideration when deciding whether or not to impose an additional obligation for costs and fees.

In addition, the advisability of imposing court costs and fees in the juvenile justice arena is currently being discussed on a national level by several public policy groups such as the Department of Justice, United States Commission on Civil Rights, Juvenile Law Center, Berkeley Law, and National Council of Juvenile and Family Court Judges (NCJFCJ). Earlier this year, NCJFCJ passed a resolution recognizing the harm that the imposition of fines, fees and costs can have on the youth and family and recommending that courts work to reduce and eliminate fees and costs. See Attachment C.

Studies have shown that imposition of fees and costs undermines rehabilitation, increases recidivism, and has racial and ethnic disparate impact. In short, a failure to pay fees can

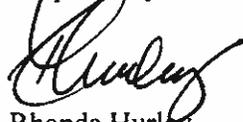
result in serious and long-term consequences for youth and families, including further penetration into the juvenile justice system, difficulty engaging in education and employment opportunities, exacerbation of existing racial and ethnic disparities, and increased family stress and strain due to increased financial burdens.

Furthermore, on a more practical note, research has shown that the administrative costs of tracking and collecting fees imposed often exceeds the amount collected and can even result in a net loss in some instances.

In January 2018, the National Conference of State Legislatures released a Statement of Principle stating, "Legal financial obligations can accrue for justice-involved youth and their families from the moment of arrest, expand the duration of a delinquency case, and compound long past its conclusion. Excessive fines and fees can also heighten stress for families already struggling financially, and contribute to racial and economic disparities."

While the language in the Texas Family Code statutes provides that fees are mandatory, there is also language in each provision that allows the court to waive fees and costs if the court finds that a parent is 'unable to pay'. Travis County juvenile courts will continue to comply with the relevant statutes and make the necessary findings when appropriate. There are, however, important policy considerations behind the exercise of judicial discretion allowed by the statutes relating to court-ordered fees.

Respectfully,



Rhonda Hurley
98th Judicial District Court
Chair, Travis County Juvenile Board

Cc: Estela Medina, Chief Juvenile Probation Officer
Chris Hubner, General Counsel



RESOLUTION ADDRESSING FINES, FEES, AND COSTS IN JUVENILE COURTS

WHEREAS, NCJFCJ recognizes that each child under court jurisdiction is unique, valued and entitled to individualized attention; and

WHEREAS, juvenile and family court judges are responsible for ensuring the safety and well-being of children under court jurisdiction while holding them accountable in developmentally appropriate ways; and

WHEREAS, several hundred thousand delinquency cases are handled by juvenile and family courts annually; and

WHEREAS, juvenile and family court judges routinely impose financial obligations on youth and their families for court-related activities including appointment of counsel fees, bail, diversion and treatment program fees, community supervision and placement fees, court costs, and restitution, frequently without consideration for each individual youth's ability to pay; and

WHEREAS, the court's financial gains as a result of the collection of fines, fees, and costs are often diminished when accounting for the administrative costs associated with collection efforts; and

WHEREAS, the failure to pay can result in serious and long-term consequences for youth and families including further penetration into the juvenile justice system, increased recidivism, difficulty engaging in education and employment opportunities, civil judgements resulting in wage garnishments, exacerbation of existing racial and ethnic disparities and increased financial burdens for impoverished families, all for reasons unrelated to public safety and counterproductive to the rehabilitative aims of the juvenile court; and

WHEREAS, impoverished youth and families may face harsher consequences than their affluent peers because of their inability to pay; and

WHEREAS, numerous professional organizations including the American Bar Association, National Juvenile Defender Center, the Juvenile Law Center, and Conference of Chief Justices/Conference of State Court Administrators have recognized the negative consequences of imposing fines and fees without regard for one's ability to pay and issued guidance on the imposition of juvenile justice related fines, fees, and costs; and

WHEREAS, a growing number of state and local jurisdictions have reduced or eliminated various fines, fees, or costs in consideration of the impact of these financial burdens on youth and families; and

WHEREAS, juvenile and family court judges are uniquely positioned to reduce or eliminate the hardships associated with fines, fees, and costs; and

NOW, THEREFORE, BE IT RESOLVED:

The NCJFCJ recognizes the critical role of the judge and judicial leadership as it applies to the imposition of juvenile court fines, fees, and costs.

The NCJFCJ encourages courts to work towards reducing and eliminating fines, fees, and costs by considering a youth and their family's ability to pay prior to imposing such financial obligations.

The NCJFCJ believes that the core functions necessary for our nation's juvenile courts to meet their rehabilitative goals should be fully funded by governmental revenue and not by revenue generated by fines, fees, and costs. Revenue generated from fines, fees, and costs should never be used for salaries or benefits of official judicial branch employees or operations nor should the revenue be used to evaluate the performance of such employees.

The NCJFCJ encourages courts to presume youth indigent when making decisions regarding the imposition of fines, fees, and costs if the youth was previously determined indigent for the purpose of securing attorney representation.

The NCJFCJ recommends that no court should detain or order youth to out-of-home placement or extend community supervision solely because of lack of payment of fines, fees, or costs.

The NCJFCJ recognizes that court fines, fees, and costs may have a disproportionate impact on poor communities and racial or ethnic minorities and supports the adoption of court policies and practices that promote fairness and equal treatment for all youth and their families.

The NCJFCJ recommends juvenile and family courts collect detailed data on the imposition and collection of fines, fees, and costs, study their effects on youth, families, and courts and demonstrate transparency by making data publicly available.

The NCJFCJ supports the imposition of reasonable restitution after considering a youth's ability to pay and encourages courts to provide opportunities for youth to repay restitution through meaningful community service.

The NCJFCJ supports the use of payment plans in those cases in which fines, costs, or fees are levied.

The NCJFCJ supports continued education for judges and court staff related to constitutional, legal and procedural principles of imposing fines, fees, and costs on youth and their families.



References

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Are there debts or other facts explaining your financial situation? _____

(If you want the Court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.")

Difference between Monthly Income and Expenses: \$ _____

According to the Travis County Juvenile Board's indigence determination standards, Applicant is considered:

Indigent NON-Indigent

_____ Qualifies for a Court Appointed Attorney

Bilingual Attorney Requested? Yes No

_____ Does NOT qualify for a Court Appointed Attorney

If TCJPD staff finds that you do **not** qualify for a court appointed attorney, initial one below:

_____ I request a hearing before a judge to present evidence of my inability to hire an attorney to represent my Child.

_____ I do **not** request a hearing before a judge to present evidence of my inability to hire an attorney to represent by Child. I accept TCJPD staff's determination that I do **not** qualify for a court appointed attorney.

Declaration in Lieu of Notarized Statement

Please print clearly:

My name is: _____ DOB: _____

My address is: _____ Phone: _____

My relationship to the Child is: _____

I have been advised that my Child must be represented by an attorney pursuant to Section 51.10 of the Texas Family Code and that I may have an attorney appointed to represent my Child if I qualify under the Travis County Juvenile Board guidelines. I understand that if I do not qualify, I am responsible for hiring an attorney to represent my Child.

I understand this declaration is being made under oath and will become part of an official proceeding, and that it is a criminal offense for me to make any false statement in this declaration and application. By my signature below, I swear that the information I have provided is true and correct. I will immediately notify the Court of any changes in my financial situation.

Declaration:

I declare under penalty of perjury that the information I have provided is true and correct.* I further declare that:

(Initial One)

_____ I cannot afford to pay costs of court
_____ I cannot afford to hire an attorney for my Child
_____ I will hire an attorney to represent my Child

**All information is subject to verification. Falsification of information is a criminal offense.*

Executed on the _____ day of _____, 20 _____

Signature

Printed Name

Printed Name of TCJPD Staff Conducting Review: _____ Date: _____

Last Revised: 8/28/18

NOTICE OF RIGHT TO HEARING REGARDING COURT COSTS AND FEES

If the Juvenile Court enters an adjudication and/or disposition in this case, you may be ordered to pay some or all of the following court costs and fees:

- \$20.00 court cost
- \$50.00 juvenile delinquency prevention fee (graffiti cases)
- \$34.00 or \$50.00 DNA testing fee (for certain felonies)
- Up to \$15.00 *per month* probation fees

The Juvenile Court may waive these costs and fees only if it finds that you are financially unable to pay. You have the right to have a hearing regarding your ability to pay.

If you would like an opportunity to demonstrate that you are unable to pay court-ordered costs or fees, **you must notify the Court and request a hearing BEFORE the Court enters its dispositional order.**

If the Court orders you to pay court costs and fees, and you fail to pay, you may, after being given a reasonable opportunity to be heard, be found in contempt and be required to pay a \$500 fine, serve six months in jail, or both.

To request a hearing, please detach and complete the bottom portion of this form and submit it to:
Court Administration Office, Rm. 1034
Gardner-Betts Juvenile Justice Center
2515 South Congress Avenue
Austin, Texas 78704

Request for Hearing Regarding Inability to Pay Court Costs and Fees

Case No: _____ Child’s initials and DOB: _____

I would like to request a hearing to demonstrate to the Juvenile Court that I am financially unable to pay court costs or fees if ordered in this case.

I understand that before the Court can waive any costs or fees, I must submit sufficient evidence to the Court of my inability to pay. At the hearing, I may testify, present documents and/or call witnesses.

I also understand that I am prohibited by law from providing false information to the Court.

Signed: _____ Date: _____

Print name: _____ Relationship to Child: _____

Last Revised: 8/23/18

JV- _____

IN THE MATTER OF:

D.O.B: _____

§ IN THE 98th DISTRICT COURT OF
§
§ TRAVIS COUNTY, TEXAS,
§
§ **SITTING AS THE JUVENILE COURT**

DISPOSITIONAL ORDER OF PROBATION

On the ____ day of _____, 20____, the above-styled and numbered cause was heard. The Respondent, _____, appeared with _____ attorney. Also present were the Respondent’s _____, Juvenile Probation Officer, _____ and the Assistant District Attorney, _____.

All parties announced ready for trial.

This Court, after considering the record, evidence and argument of counsel, finds that the Respondent was adjudged to have engaged in delinquent conduct in a hearing held by this Court on _____ for committing the offense of _____ and that the Respondent is in need of rehabilitation and that the protection of the public requires that disposition be made.

The Court further finds that the best interest of the Respondent and of the society will be served by placing the Respondent in probation in the custody of _____ to expire on the _____, and subject to probationary supervision and to the Rules of Probation as attached hereto and as amended from time to time and made part of this Order.

This Court finds that the educational needs of the Respondent have been assessed in the Court Summary prepared by the Probation Officer and adequately addressed in the treatment program prepared for the Respondent.

It is therefore ORDERED that _____ is hereby placed on probation in the custody of his _____ to expire on the _____, and subject to the probationary rules as attached hereto and as amended from time to time and made a part hereof for all intents and purposes.

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Respondent's D.O.B. _____
PID# _____ / _____

It is further **ORDERED** that _____, the person responsible for the child's support, **shall pay all court costs and fees as designated below:**

- \$20.00 (Tex. Fam. Code § 54.0411(a) – Court costs – all disposition orders)
- \$50.00 (Tex. Fam. Code § 54.0461(a) – Disposition for graffiti adjudication)
- \$34.00 or \$50.00 if TJJD (Tex. Fam. Code § 54.0462(a)(1) and (2) – felony w/ DNA sample required by law)
- \$15.00 per month during term of probation (Tex. Fam. Code § 54.061(a) – probation fee)

Or

Has been found by the court to be unable to pay court costs/fees and, therefore, is not required to pay any of the above-listed fees/costs

Failure to pay the costs or fees as ordered above may, after being given a reasonable opportunity to be heard, result in a finding of contempt punishable by up to six months in jail, a \$500.00 fine, or both.

It is further ORDERED that any court-appointed attorney for Respondent shall be and hereby is discharged.

The Court hereby instructs the Respondent of his rights with respect to appeal under Title III of the Texas Family Code.

Signed on the _____ day of November, 2018.

Judge Presiding

Attached: Rules of Probation

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**Travis County Juvenile Probation Department
Court Administration/Probation/Finance
Standard Operating Procedures for the
Processing of Various Court Fees**

Process

In accordance with Sections 54.0411, 54.0461, 54.0462 and 54.061, Family Code, the Juvenile Court *shall* order the child, parent or other responsible person, *if financially able to do so*, to pay fees relating to costs of court, a Graffiti eradication fee, DNA testing fee and probation fees, as applicable.

Note: The decision to assess or waive any fee is a judicial determination that can only be made by the Court. If the Court finds that a child, parent or other responsible person is unable to pay the fees under Sections 54.0461, 54.0462 and 54.061, the Court *must* make a finding to that effect and enter it into the child's case record.

These fees may only be waived if the Court makes the finding of inability to pay:

- Sec. 54.0411 requires the Juvenile Court to order payment of a \$20 court cost fee if the family is financially able to do so. Any fees assessed or waived under Sec. 54.0411 must be reported to Commissioners Court pursuant to Art. 103.005, Code of Criminal Procedure, even if no such fees are collected. The required report must be filed in the regular manner and must clearly state that no funds due under this section were collected. Any funds collected are first deposited with the County Treasurer and then sent to the Comptroller of Public Accounts for the State of Texas where they are deposited into a special account known as the Juvenile Probation Diversion Fund.
- Sec. 54.0461 Graffiti eradication fees must be paid to the County Treasurer for deposit into the County Juvenile Delinquency Prevention Fund as required by Art. 102.0171, Code of Criminal Procedure.
- Sec. 54.0462 DNA testing fees must be transferred to the State Comptroller and will ultimately be credited to DPS to help defray the cost of analyzing DNA samples provided by juveniles. The \$34 or \$50 fee applies only to certain adjudicated felony offenses. See, Sec. 54.0409, Family Code.
- Sec. 54.061 Probation fees are deposited with the County Treasurer to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities.

Procedure

1. After completing the ***Statement of Inability to Pay Costs of Court and Application Requesting Appointment of Counsel*** form in preparation for a Detention Hearing or any other hearing on a new offense, the Juvenile Probation Officer (JPO) will submit the form to the Court Clerk ***prior to*** the hearing. During the hearing, the Court will inform parent/guardian that if they do not qualify for a court appointed attorney they will need to hire one. Additionally, the Court Clerk will provide the family with the ***Notice of Right to a Hearing Regarding Court Costs and Fees*** form. This form gives the family the option of requesting a hearing to demonstrate to the Court their inability to pay court costs or fees. Requesting a hearing is optional and the form may be submitted at any time prior to a disposition hearing.
2. If a JPO completes the ***Statement of Inability to Pay*** form during an office visit and determines that the family does ***not*** meet the qualifications for a court appointed attorney, the JPO will direct the family to Court Administration. The JPO will submit the ***Statement of Inability to Pay*** to the front desk at Court Administration where staff will provide the family with the ***Notice of Right to a Hearing*** form. At that time, Court Administration staff will inform the family that if their child is adjudicated on an offense, court costs and fees may apply. Court Administration staff will also explain that the family may submit the ***Notice of Right to a Hearing*** form in order to request a hearing to demonstrate to the Court their financial inability to pay court costs or fees. Requesting a hearing is optional and the form may be submitted at any time prior to a Disposition Hearing.
3. A hearing regarding financial ability to pay costs and fees will occur on the same day as but ***prior to*** a Disposition Hearing.
4. The Filing Clerk will tab the ***Notice of Right to a Hearing*** form in the legal file for future use prior to the Disposition Hearing, if applicable.
5. The Court Report will include a recommendation about whether to waive or assess the \$20 court cost, the \$15 monthly probation fee, the \$50 graffiti fee and/or the \$34/\$50 DNA fee, as applicable, based on the Department's determination of financial ability or inability to pay fees and costs of court. Suggested language for the probation fee is as follows: "A monthly probation fee is recommended up to \$15 per month." The Court will ultimately determine the exact fee amount. DNA and Graffiti fees are statutorily pre-determined and cannot be adjusted.
6. At a Disposition Hearing, the Court must decide whether to assess or waive any of the above-referenced fees. This judicial determination is based on the family's financial ability to pay fees and costs. The Court's determination will be documented in the Disposition Order.
7. The Court Clerk is responsible for entering the event type in CW Plus for each applicable fee that is assessed or waived, in addition to including this information in the Disposition Order.

8. Whenever the Court enters an order of No Disposition, the Order must still include the option to assess or waive any fees as determined by the Court.
9. When a court cost is assessed, the Court Clerk will prepare and submit an ***Account Information*** form, along with the Order, and will forward both to the Finance Unit for further processing.
10. When a probation fee, DNA testing or Graffiti fee is ordered, the JPO will submit the ***Account Information*** form to Finance along with a copy of the Disposition Order.
11. Finance will email a monthly summary of balances to JPOs and Court Administration pertaining to those families still owing costs and/or fees.
12. Finance will prepare and submit a quarterly report to the County Auditor's Office for any fees collected, as required by Art. 103.005, Code of Criminal Procedure.
13. JPOs will provide the Disposition Order to the child/parent by accessing it in the Legal Filed Docs folder in the Legal Drive.
14. For families that are delinquent in paying any fees, the following collection options will be utilized:
 - a. A phone call;
 - b. An office visit; and/or
 - c. A letter mailed to the parent urging compliance.

If a family has not paid any fees or costs by the third month of a probation term, an administrative hearing with the Casework Manager will be arranged. Court Administration will periodically send letters to individuals who are delinquent in paying the \$20 court cost fee.

Juvenile Court orders for payment of fees may be enforced as provided in Sec. 54.07 and Chapter 61, Family Code.

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