

<b>County Clerks' Misdemeanor Conviction Court Cost Chart (ORIGINAL JURISDICTION) – 09/01/2019</b>		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>	<b>J</b>
<b>Always Charge Cost Nos. 1 thru 15 upon conviction (including deferred adjudication and deferred disposition).</b>											
1	Emergency Medical Services (EMS), Trauma Facilities and Trauma Care Systems Cost – CCP, art. 102.0185	100	100	100	0	0	0	0	0	0	0
2	Consolidated Court Cost – LGC, § 133.102(a)	83	83	83	83	83	83	83	83	83	83
3	Drug Court Cost – CCP, art. 102.0178	60	60	60	60	0	0	0	0	0	0
4	Juvenile Delinquency Prevention Fee – CCP, art. 102.0171(a)	0	0	0	0	50	0	0	0	0	0
5	Clerk's Fee – CCP, art. 102.005(a)	40	40	40	40	40	40	40	40	40	40
6	State Traffic Fine – Transp. Code, §542.4031	0	0	0	0	0	50	50	0	0	0
7	Records Management Fee – CCP, art. 102.005(f)	25	25	25	25	25	25	25	25	25	25
8	Judicial Fund Court Cost – Government Code, §§ 51.702, 51.703	15	15	15	15	15	15	15	15	15	15
9	Judicial Support Fee – Local Gov't Code, § 133.105(a)	6	6	6	6	6	6	6	6	6	6
10	County and District Court Technology Fund Fee – CCP, art. 102.0169	4	4	4	4	4	4	4	4	4	4
11	Court Security Fee – CCP, art. 102.017(b)	3	3	3	3	3	3	3	3	3	3
12	Additional Court Cost – Transp. Code, § 542.403	0	0	0	0	0	3	3	0	0	0
13	Indigent Defense Fee – Local Gov't Code, § 133.107	2	2	2	2	2	2	2	2	2	2
14	Moving Violation Fee – CCP, art. 102.022	0.10	0.10	0	0	0	0.10	0	0.10	0	0
<b>TOTAL COSTS ALWAYS CHARGED UPON CONVICTION (INCLUDING DEFERRED ADJUDICATION AND DEFERRED DISPOSITION)</b>		<b>338.10</b>	<b>338.10</b>	<b>338</b>	<b>238</b>	<b>228</b>	<b>231.10</b>	<b>231</b>	<b>178.10</b>	<b>178</b>	<b>178</b>
15	DNA Testing Court Cost No. 2 – CCP, art. 102.020(a)(2) <b>Charged upon conviction (including deferred adjudication) if the court does not waive the cost because the defendant is indigent and unable to pay.</b>	0	0	0	0	0	0	0	0	50	0
<b>Cost Nos. 17 thru 28 are charged upon conviction (including deferred adjudication and deferred disposition) if the applicable service was performed by a peace officer.</b>											
16	Execute or Process Arrest Warrant, Capias, or Capias Pro Fine - CCP, 102.011(a)(2)	50	50	50	50	50	50	50	50	50	50
17	Serve Writ – CCP, art. 102.011(a)(4)	35	35	35	35	35	35	35	35	35	35
18	Take and Approve Bond – CCP, art. 102.011(a)(5)	10	10	10	10	10	10	10	10	10	10
19	Convey Witness (charge per day) – CCP, art. 102.011(c)	10	10	10	10	10	10	10	10	10	10
20	Arrest without Warrant or Issue Notice to Appear – CCP, 102.011(a)(1)	5	5	5	5	5	5	5	5	5	5
21	Summon Witness (charge per witness each time summoned) – CCP, art. 102.011(a)(3)	5	5	5	5	5	5	5	5	5	5
22	Commitment to Jail – CCP, art. 102.011(a)(6)	5	5	5	5	5	5	5	5	5	5
23	Release from Jail – CCP, art. 102.011(a)(6)	5	5	5	5	5	5	5	5	5	5
24	Summon Jury – CCP, art. 102.011(a)(7)	5	5	5	5	5	5	5	5	5	5
25	Mileage Fees for certain Conveyances and Travel (29¢/mile) – CCP, art. 102.011(b)	x	x	x	x	x	x	x	x	x	x
26	Meals/Lodging Expenses for certain Conveyances and Travel – CCP, art. 102.011(b)	x	x	x	x	x	x	x	x	x	x
27	Overtime Costs for Testifying at Trial - CCP, 102.011(i)	x	x	x	x	x	x	x	x	x	x
28	Jury Fee – CCP, art. 102.004 <b>Charged upon conviction by jury only.</b>	40	40	40	40	40	40	40	40	40	40
29	Prosecutor's Fee – CCP, art. 102.008(a) <b>Charged upon conviction. The statute does not indicate that "conviction" includes deferred adjudication and deferred disposition. This fee applies to misdemeanors and gambling offenses.</b>	25	25	25	25	25	25	25	25	25	25
30	Juror Reimbursement Fee – CCP, art. 102.0045 <b>Charged upon conviction. The statute does not indicate that "conviction" includes deferred adjudication and deferred disposition. This fee applies whether or not there was a jury trial.</b>	4	4	4	4	4	4	4	4	4	4
31	Visual Recording Cost – CCP, art. 102.018(a) <b>Charged upon conviction (including deferred adjudication and deferred disposition) if a law enforcement agency used an electronic device to visually record the defendant.</b>	15	15	0	0	0	0	0	0	0	0
32	Restitution Installment Fee – CCP, art. 42.037(g) <b>Charged upon conviction if the court ordered installment payments. The statute does not indicate that "conviction" includes deferred adjudication and deferred disposition.</b>	12	12	12	12	12	12	12	12	12	12
33	Statewide E-Filing Fee – Gov't Code, § 51.851(d) <b>Charged upon conviction (including deferred adjudication and deferred disposition) if the court did not waive the fee because the defendant is indigent.</b>	5	5	5	5	5	5	5	5	5	5
34	Drug or Alcohol Rehabilitation Evaluation Court Cost – CCP, art. 102.018(b) <b>Charged upon conviction (including deferred adjudication) if the court did not waive because the defendant is indigent.</b>	x	0	0	0	0	0	0	0	0	0

**NOTE:** When "X" appears on the chart this indicates that the amount must be calculated as provided in the statute.

**The following costs are charged in appropriate circumstances:**

- (35) Transaction Fee – CCP, art. 102.072 – not to exceed \$2.00

This optional fee may be charged on each transaction relating to the collection of fines, fees, restitution, or other costs imposed by a court.

- (36) Time Payment Fee – LGC, § 133.103 -- \$25.00

This fee is required whenever a person convicted of an offense pays any part of a fine, court costs, or restitution on or after the 31<sup>st</sup> day after the judgment entered assessing the fine, court costs, or restitution. For this fee, “convicted” includes deferred adjudication and deferred disposition.

- (37) Administrative Fee (Omni Fee – Failure to Pay) – Transportation Code, § 706.006(b) -- \$30.00 (*driver's license*)

This fee is required if a person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner the court orders it, but only if the court does not make a finding that the person is indigent.

**NOTE:** A person is presumed to be indigent if the person: (1) is required to attend school full time under Section [25.085](#), Education Code; (2) is a member of a household with a total annual income that is below 125 percent of the applicable income level established by the federal poverty guidelines; or (3) receives assistance from: (A) the financial assistance program established under Chapter [31](#), Human Resources Code; (B) the medical assistance program under Chapter [32](#), Human Resources Code; (C) the supplemental nutrition assistance program established under Chapter [33](#), Human Resources Code; (D) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786; or (E) the child health plan program under Chapter [62](#), Health and Safety Code. See Transportation Code § 706.006(d)

- (38) Order of Nondisclosure Fee – Government Code, § 411.072 -- \$28.00

This fee is required before the court issues an order of nondisclosure under § 411.072(b). A person is not required to file a petition for an order of nondisclosure under § 411.072, so the clerk should not charge fees that generally apply upon the filing of a civil petition. Compare the language of § 411.072(b) with the language of §§ 411.0725(b), 411.0727(b), 411.0728(b), 411.073(b), 411.0731(b), 411.0735(b), and 411.0736(b). Unlike these other sections, Section 411.072(b) does not contain a sentence with language the same as or similar to, “the person may petition the court” or “the person is entitled to file with the court.... a petition.”

**Detailed Description of Offenses in each Misdemeanor Category on Chart**

- A Driving While Intoxicated (DWI) punishable under Penal Code, § 49.04(b)
- B Driving While Intoxicated (DWI) punishable under Penal Code, § 49.04(c), (d)
- C Class A or B Misdemeanor Intoxication Offense other than DWI – Penal Code, §§ 49.05 - 49.065
- D Class A or B Misdemeanor Drug Offense – Health & Safety Code, Ch. 481
- E Class A or B Misdemeanor Graffiti Offense – Penal Code, § 28.08
- F Class A or B Misdemeanor Rules-of-the-Road Offense<sup>1</sup> that is a moving violation<sup>2</sup>
- G Class A or B Misdemeanor Rules-of-the-Road Offense that is not a moving violation
- H General Class A or B Misdemeanor Offense<sup>3</sup> that is a moving violation
- I Public Lewdness – Penal Code, § 21.07  
Indecent Exposure – Penal Code, § 21.08  
Terroristic Threat – Penal Code, § 22.07 (if a Class A Misdemeanor)  
Enticing a Child – Penal Code, § 25.04  
Prostitution – Penal Code, § 43.02(b)  
Sale, Distribution, or Display of Harmful Material to Minor – Penal Code, § 43.24  
Electronic Transmission of Certain Visual Material Depicting Minor – Penal Code, § 43.261 (if a Class A Misdemeanor)
- J General Class A or B Misdemeanor Offense that is not a moving violation

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<sup>1</sup> A rules-of-the-road offense is any offense found in Transportation Code, Chapters 541 through 600.

<sup>2</sup> The list of offenses considered to be moving violations can be found at 37 Tex. Admin. Code § 15.89(b). The list is available online at <http://texreg.sos.state.tx.us/fids/201403910-1.html>.

<sup>3</sup> A general Class A or B misdemeanor offense is any Class A or B Misdemeanor offense other than an offense listed in Columns A through H or in Column J.

## Court Cost and Fee Destinations

- (1) 90% to State account funding emergency medical services, trauma facilities, and trauma care systems; 10% as a collection fee to the County.
- (2) Generally, 90% to the State and 10% to the County as a collection fee to be deposited in the County General Fund. However, a county may be able to retain an additional \$22.50 if the county maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by DPS and the conviction was an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor (See Art. 102.016(b), CCP). The State money goes to 12 destinations as follows: ~~(4) abused children's counseling [0.0088%];~~ (2) crime stoppers assistance [0.2581%]; (3) breath alcohol testing [0.5507%]; (4) Bill Blackwood Law Enforcement Management Institute [2.1683%]; (5) law enforcement officers standards and education [5.0034%]; ~~(6) comprehensive rehabilitation [9.8218%];~~ (7) law enforcement and custodial officer supplemental retirement fund [11.1426%]; (8) criminal justice planning [12.5537%]; (9) Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University [1.2090%]; (10) compensation to victims of crime fund [37.6338%]; (11) emergency radio infrastructure account [5.5904%]; (12) judicial and court personnel training fund [4.8362%]; (13) Correctional Management Institute of Texas and Criminal Justice Center Account [1.2090%]; and (14) fair defense account [8.014317.8448%]. If a county is entitled to retain the additional \$22.50, it must be used to defray the costs of maintaining and supporting a certified breath alcohol testing program.
- (3) In counties with drug court programs: (1) 50% to the County to develop and maintain County drug court programs; (2) 40% to the State to the Drug Court Account in the State General Revenue Fund to help fund drug court programs established under Chapters 122 – 125, Government Code; and (3) 10% as a service fee to the County General Fund. In counties with no drug court programs, 10% is retained by the County as a service fee and 90% is directed to the State Drug Court Account as mentioned above.
- (4) 100% to the County Juvenile Delinquency Prevention Fund to: (1) repair graffiti damage; (2) provide educational and intervention programs and materials designed to prevent persons from committing graffiti offenses; (3) provide rewards for aiding in the apprehension and prosecution of graffiti offenders; (4) fund teen recognition and recreation programs; (5) fund teen courts; (6) fund local juvenile probation departments; and (7) provide educational and intervention programs designed to prevent juveniles from engaging in delinquent conduct.
- (5) 100% to the County.
- (6) ~~5%~~ 4% to the County as a service fee for collection and 96% to the State. The money is directed to the State as follows: (1) 70% ~~67%~~ to the credit of the undedicated portion of the General Revenue Fund; and (2) 30% ~~33%~~ to the credit of the designated trauma and emergency medical services account under Section 780.003, Health & Safety Code.
- (7) 100% to the County. \$22.50 to the County Records Management and Preservation Fund. \$2.50 to the records management and preservation fund of the clerk of the court.
- (8) 100% to the State for deposit in the judicial fund.
- (9) \$0.60 goes to the County General Fund "to promote the efficient operation of the . . . county courts and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the courts." \$5.40 goes to the State Judicial Fund for court-related purposes for support of the judicial branch of the State, for child support and court management as provided by § 21.007, Government Code, and for basic civil legal services to the indigent as provided by § 51.943, Government Code.
- (10) 100% of the money is deposited in the County and District Court Technology Fund for: (1) the cost of continuing education and training for county and district court judges and clerks regarding technological enhancements for those courts; and (2) the purchase and maintenance of technological enhancements for district courts and county-level courts, including: (a) computer systems; (b) computer networks; (c) computer hardware; (d) computer software; (e) imaging systems; (f) electronic kiosks; and (g) docket management systems.
- (11) 100% stays with the County and is deposited into the Courthouse Security Fund.
- (12) 100% of the money stays with the County.
- (13) 90% to the State "Fair Defense Account" to fund indigent defense; 10% goes to the County as a collection fee.
- (14) 90% to the State; 10% as a collection fee to the County. The State money is deposited to the credit of the "Civil Justice Data Repository" fund in the State's General Fund. The money is "to be used only by the Texas Commission on Law Enforcement to implement duties under Section 1701.162, Occupations Code." The Commission's duties involve the audit of certain law enforcement agency records.
- (15) 90% to the State; 10% as a collection fee to the County. The State money goes to DPS to help defray the cost of collecting or analyzing DNA samples provided by defendants who are required to pay this court cost.
- (16) The money is charged for the services of: (1) the law enforcement agency that executed the arrest warrant, capias, or capias pro fine, if the agency requests the court to impose the fee on conviction not later than the 15<sup>th</sup> day after the date of the execution of the arrest warrant, capias, or capias pro fine; or (2) the law enforcement agency that processed the arrest warrant, capias, or capias pro fine, if: (a) the arrest warrant, capias, or capias pro fine was not executed; or (b) the executing law enforcement agency did not timely request the court to impose the fee. If the law enforcement agency is a State entity (such as DPS or Parks and Wildlife), then 20% of the money is forward to the State while 80% of the money is retained by the County. The State money goes to the State's General Fund. If the law enforcement agency is a County or City, then 100% of the money goes to the County or City.
- (17) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (18) 100% of the money stays with the County.

- (19) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (20) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (21) 100% of the money stays with the County.
- (22) 100% of the money stays with the County.
- (23) 100% of the money stays with the County.
- (24) 100% of the money stays with the County.
- (25) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (26) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (27) Generally, 100% of the money stays with the County. The exception is if the service is performed by a peace officer employed by the State (e.g., DPS, Parks & Wildlife, etc.). In such an instance, the County keeps 80% of the fee. The other 20% goes to the State General Revenue Fund.
- (28) 100% of the money stays with the County.
- (29) 100% to the County.
- (30) 90% to the State Jury Service Fund to reimburse counties for juror costs; 10% as a collection fee to the County
- (31) 100% of the money stays with the County.
- (32) 50% of the money (\$6.00) goes to the State's Compensation to Victims of Crime Fund. The other 50% of the money (\$6.00) is to be retained by the court "for costs incurred in collecting the specified installments."
- (33) 100% to the State for deposit "to the credit of the statewide electronic filing system fund established under [Gov't Code] Section 51.852."
- (34) 100% of the money stays with the County.
- (35) 100% of the money stay with the County.
- (36) 50% of the money (\$12.50) is sent to the State and the other 50% (\$12.50) is retained by the County. The money directed to the State is to be deposited in the State's General Fund. As for the 50% of the money retained by the County, 80% (\$10.00) goes to the County for unspecified purposes. The remaining 20% (\$2.50) is to be used "for the purpose of improving the efficiency of the administration of justice in the county." The County is required to "prioritize the needs of the judicial officer who collected the fees when making expenditures . . . and use the money deposited to provide for those needs."
- (37) \$20 is directed to the State while \$10 is retained by the County. Of the \$20 directed to the State, \$10 is credited to the DPS to implement Chapter 706 of the Transportation Code. Chapter 706 outlines the procedure for DPS to deny the renewal of the driver's license of a person who has failed to pay his or her court-ordered fine and costs. The remaining \$10 goes to the State's General Fund. There is no stated purpose for this \$10 amount. Of the \$10 retained by the County, it should be deposited in the general fund. There is no stated purpose for its use. See Transp. Code §706.007.
- (38) 100% of the money to the State for deposit in the State General Revenue Fund.

## **CONSTITUTIONAL CHALLENGES TO COURT COST AND FEE DESTINATIONS** (This is not an exhaustive list. There could be other cases.)

### **New Test Used to Establish the Constitutionality of a Criminal Court Cost or Fee**

In *Peraza v. State*, 467 S.W.3d 508 (Tex. Crim. App. 2015), the CCA established a new test for determining the constitutionality of a criminal court cost. In *Peraza*, CCA said a cost is constitutional if the statute creating the cost directs the cost to be expended for criminal justice purposes. *Id* at 517. CCA defined a “criminal justice purpose” to be “one that relates to the administration of our criminal justice system.” *Id*. The Court later used this test to find allocations of funds from the consolidated court cost to the abused children’s counseling and comprehensive rehabilitation accounts facially unconstitutional as a violation of the Separation of Powers Clause. See *Salinas v. State*, 523 S.W.3d 103, 106 (Tex. Crim. App. 2017). Following the Court’s decision in *Salinas*, the Legislature subsequently amended the relevant statute (LGC § 133.102) to fix the constitutional infirmity. Consequently, courts can still charge the consolidated court cost.

### **Other Constitutional Challenges to Criminal Court Costs and Fees** – If your court is in the jurisdiction of a court of appeals that has issued an opinion on the issue, this opinion may be binding on your court. You should discuss the matter with the attorney for your county. Also, you should check with your attorney to see whether an opinion is final.

#### **Peace Officer Fee – Summoning a Witness** (charge per witness each time summoned) – CCP, art. 102.011(a)(3)

The First Court of Appeals declared this fee facially unconstitutional. *Allen v. State*, No. 01-16-00768-CR, 2017 Tex. App. LEXIS 11015 (Tex. App.—Houston [1<sup>st</sup> Dist.] Nov. 28, 2017, no pet. h.) (motion for en banc reconsideration pending)

#### **Peace Officer Fee - Mileage Fees for certain Conveyances and Travel (29¢/mile)** – CCP, art. 102.011(b)

The First Court of Appeals declared this fee facially unconstitutional. *Allen v. State*, No. 01-16-00768-CR, 2017 Tex. App. LEXIS 11015 (Tex. App.—Houston [1<sup>st</sup> Dist.] Nov. 28, 2017, no pet. h.) (motion for en banc reconsideration pending)

#### **Prosecutor’s Fee - CCP, art. 102.008(a)**

The First Court of Appeals declared this fee facially unconstitutional. *Hernandez v. State*, No. 01-16-00755-CR, 2017 Tex. App. LEXIS 7612 (Tex. App.—Houston [1<sup>st</sup> Dist.] August 10, 2017, no pet. h.) (motion for rehearing pending)

#### **Jury Fee - CCP, art. 102.004(a)**

The First Court of Appeals declared this fee facially unconstitutional. *Johnson v. State*, No. 14-16-00658-CR, 2018 Tex. App. LEXIS 2136 (Tex. App. Tex. App.—Houston [14<sup>th</sup> Dist.] March 27, 2018, no pet. h.)

#### **Emergency Medical Services (EMS), Trauma Facilities and Trauma Care Systems Cost - CCP, art. 102.0185**

The Second and Sixth Courts of Appeals declared this fee facially unconstitutional. *Casas v. State*, 524 S.W.3d 921 (Tex. App.—Fort Worth 2017); *Robison v. State*, No. 06-17-00082-CR, 2017 Tex. App. LEXIS 9713 (Tex. App.—Texarkana October 10, 2017)

## **WAIVER OF PAYMENT OPTION** (Art. 43.091, CCP)

- Courts may waive all or part of a fine or costs and must no longer wait for a defendant to default.** A court may waive payment of all or part of a fine or costs imposed on a defendant if the court determines that: (1) the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs or was, at the time the offense was committed, a child; and (2) each alternative method of discharging the fine or cost would impose an undue hardship on the defendant.