

## Legal Q&A

By **Bill Longley**, TML Legislative Counsel

### **Q What is the local consolidated court fee?**

A Senate Bill 346, which became effective in 2019, consolidated a handful of local option municipal court fees into one fee. The resulting “local consolidated court fee” is a \$14 fee assessed on a person convicted of a non-jailable misdemeanor. TEX. LOC. GOV’T CODE § 134.103(a). The city is responsible for collecting the fee and establishing four different accounts to which the fee revenue is assigned. The fee revenue is apportioned as follows: (1) 35.7143 percent (\$5.00 of each fee) to the Local Truancy Prevention and Diversion Fund; (2) 35 percent (\$4.90) to the Municipal Court Building Security Fund (3) 28.5714 percent (\$4.00) to the Municipal Court Technology Fund; and (4) .7143 percent (\$.10) to the Municipal Jury Fund. *Id.* § 134.103(b).

Senate Bill 346 removed the “local option” component of the municipal court building security, municipal court technology, and juvenile case manager fee. Instead of adopting an ordinance to impose each of those fees, every city is now required to assign a portion of the local consolidated court fee revenue to building security, court technology, and juvenile case managers (through the local truancy prevention and diversion fund), without regard for whether or not the city formally adopted the fee.

### **Q The fee is applied only to people “convicted” of offenses. How is that term interpreted?**

A The Code of Criminal Procedure defines “conviction” quite broadly with respect to triggering the local consolidated court fee. A person is considered to have been convicted in a case, for purposes of collecting the fee, if: (1) a judgment, a sentence, or both a judgment and a sentence, are imposed on the person; (2) the person receives community supervision, deferred adjudication, or deferred disposition; or (3) the court defers final disposition of the case or imposition of the judgment and sentence. *Id.* § 134.002(b). Thus, most routine dispositions of criminal cases in municipal court, short of acquittal or dismissal, trigger the fee.

### **Q How is the local consolidated court fee collected?**

A The municipal court clerk is required to collect the local consolidated court fee and remit the revenue to the city treasurer, who then must deposit the funds in the municipal treasury. *Id.* §§ 134.002(a)(2) and 134.0051.

### **Q What may money in the local truancy prevention and diversion fund be spent on?**

A Prior to the passage of S.B. 346, cities had the option to adopt an ordinance establishing a juvenile case manager fee. The bill repealed that authority. Instead, it establishes the local truancy prevention and diversion fund and authorizes the local consolidated court fee revenue dedicated to the fund to be used in the same ways as the juvenile case manager fee.

A city may use money in the local truancy prevention and diversion fund to finance the salary, benefits, training, travel expenses, office supplies, and other necessary expenses related to the position of a juvenile case manager employed pursuant to Code of Criminal Procedure Art. 45.056. *Id.* § 134.156(a). If there is money left in the fund after those costs are paid, a juvenile case manager is authorized—subject to the direction of the city council and on approval by the municipal court—to direct the remaining money to be used to implement programs directly related to the duties of the juvenile case manager, including juvenile alcohol and substance abuse programs, educational and leadership programs, and any other projects designed to prevent or reduce the number of juvenile referrals to the court. *Id.* § 134.156(a).

**Q What if the city does not employ a juvenile case manager?**

**A** The statute is unclear on this point. Because the city council maintains some discretion to spend funds that aren't used on the juvenile case manager on programs directly related to the duties of a juvenile case manager, cities without juvenile case managers might be able to spend funds in this manner. However, the statute expressly prohibits money in the local truancy prevention and diversion fund from being used to supplement the income of an employee whose primary role is not that of a juvenile case manager. *Id.* § 134.156(b).

**Q What may money in the municipal court building security fund be spent on?**

**A** The revenue in the municipal court building security fund may be spent only to finance security personnel, services, and items related to buildings that house the operations of municipal courts, including:

- (1) X-ray machines and conveying systems;
- (2) Handheld metal detectors;
- (3) Walkthrough metal detectors;
- (4) Identification cards and systems;
- (5) Electronic locking and surveillance equipment;
- (6) Video conferencing systems;
- (7) Bailiffs of contract security personnel during times when they are providing appropriate security services;
- (8) Signage;
- (9) Confiscated weapon inventory and tracking systems;
- (10) Locks, chains, alarms, or similar security devices;

- (11) Bullet-proof glass;
- (12) Continuing education on security issues for court and security personnel; and
- (13) Warrant officers and related equipment.

TEX. CRIM. PROC. CODE § 102.017(c).

**Q What may money in the municipal court technology fund be spent on?**

**A** The fees in the municipal court technology fund may be spent only to purchase or maintain technological enhancements for a municipal court's operations, including: (1) computer systems; (2) computer networks; (3) computer hardware; (4) computer software; (5) imaging systems; (6) electronic kiosks; (7) electronic ticket writers; and (8) docket management systems. *Id.* § 102.0172(b).

**Q What may money in the municipal jury fund be spent on?**

**A** Revenue allocated to the municipal jury fund may be used by a city to fund only juror reimbursements and otherwise finance jury services. TEX. LOC. GOV'T CODE § 134.154.

**Q What are child safety fines?**

**A** Separate and apart from the local consolidated court fee, cities may (and in some cases must) collect fines that are to be used for child safety.

Cities under 850,000 population may adopt an optional municipal court fine on parking violations, if the city has a parking ordinance that provides penalties for violations. For cities under 850,000 population, the optional court fine can be any amount up to \$5 and is paid on conviction of a parking violation, just as with other court costs. TEX. CRIM. PROC. CODE § 102.014(b).

Cities with a population greater than 850,000 and that have adopted parking ordinances must levy the fine in an amount between \$2 and \$5. *Id.* § 102.014(a).

**Q How is the child safety fine adopted?**

**A** A city council in a city with a population less than 850,000 must adopt the child safety fine by "order." *Id.* § 102.014(b). In practice, an order would likely be no different from a resolution.

**Q What can the proceeds of the fine be spent on?**

**A** That depends on population:

**Cities under 850,000 population:** If the city operates a school crossing guard program, the proceeds of the fine must be spent on that program. If the city does not operate a school crossing guard program, the city may either deposit the additional money in an interest-bearing account or

expend it for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention. *Id.* § 102.014(g). A city under 850,000 population is also authorized to spend the additional money on programs designed to enhance public safety and security. *Id.*

**Cities over 850,000 population:** The city must deposit the proceeds of the fine into the required municipal child safety trust fund under Chapter 106 of the Local Government Code. *Id.* § 102.014(f). With the exception of spending money on programs designed to enhance public safety and security, money in that fund is to be spent in a similar fashion to smaller cities above: school crossing guard programs, or other child safety and health initiatives. TEX. LOC. GOV'T CODE § 106.003.

**Q In addition to the optional parking violation fine, are there other fines that must be spent on child safety?**

**A** Yes, school crossing zone violations and violations for improperly passing a stopped school bus trigger an automatic \$25 fine that must be spent in the same manner as the optional parking violation court cost. TEX. CRIM. PROC. CODE § 102.014(c).