TEXAS MUNICIPAL COURTS EDUCATION CENTER

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May 11, 2007

Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Re: RQ-0579-GA

Dear General Abbott,

In an effort to facilitate a complete and accurate analysis of the legal issues presented in the Harris County Attorney's request for an opinion regarding the constitutionality of Article 102.0174 of the Code of Criminal Procedure, we submit the following observations and contentions:

1. Information contained in RQ-0579 provides inadequate information necessary to assess the legality of Article 102.0174, Code of Criminal Procedure.

In determining the constitutionality of Article 102.0174, it is essential that the statute is properly construed. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters: (1) the object sought to be attained; (2) circumstances under which the statute was enacted; (3) legislative history; and, (4) consequences of a particular construction.[1]

In RQ-0579, Harris County provides inadequate information to comprehensively construe the statutes pertaining to juvenile case managers and the juvenile case manager fund.

Due to increases in juvenile criminal activity and legislative changes made beginning in 1991, municipal and justice courts continue to experience a virtual explosion in the number of non-traffic juvenile case filed in court.[2] Described as "shadow courts" municipal and justice courts today are the venue of myriad cases historically adjudicated by juvenile courts. While such courts were not originally envisioned or equipped for this purpose, today municipal and justice courts play a critical role in the Texas juvenile justice system.

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[1] Tex. Gov't Code Ann. Sec. 311.023 (Vernon 2006).

[2] *See*, Robert O. Dawson, *Texas Juvenile Law*, 6th Edition (Texas Juvenile Probation Commission 2004) at 43 and W. Clay Abbott & Ryan Kellus Turner, *The Municipal Judges Book* (Texas Municipal Courts Education Center/Texas Municipal Courts Association 2005) at 6-3.

The principle architect of the current Texas juvenile justice system is the late Professor Robert O. Dawson of the University of Texas Law School.[3] Dawson realized that municipal and justice courts (which are locally funded) were ill-equipped to handle the burden imposed on them as a result of the legislative changes that occurred in the 1990s. Alas, the juvenile case manager concept was born in Texas.

In specific response to Professor Dawson's call for action, juvenile case managers were part of the Legislature's response to alleviate the new burden placed on local trial courts.[4]

As Dawson explains:

> "A case manager is much like a juvenile probation officer. He or she assists the court, as directed by the court, in handling the juvenile docket. Many justice or municipal courts have employed juvenile case managers. Article 45.056 makes it clear that the legislature approves of the practice. In some courts, case managers receive and docket all complaints filed against juveniles and assist the judge in prosecuting those cases, and securing the attendance of juveniles and their parents to court proceedings. If directed by the court, case managers can also operate pre-trial diversion programs and assist in the implementation of dispositional orders, such as arranging for community service by juveniles and supervising the juvenile during the deferral period."[5]

The burden of adjudicating an increasing number of juvenile cases appeared to local governments as an unfunded mandate, and the question became how to pay for juvenile case managers. As originally enacted in 2001, Article 45.056(b) of the Code of Criminal Procedure authorized local governments to apply to the Criminal Justice Division of the Governor's Office for grants to enable employment. "Unfortunately," Dawson states, "so far the legislature has not appropriated funds for this purpose and the governor's office has been unable to make those funds available from other sources."[6]

With the support of the Texas Judicial Council, the proposed solution for the lack of funding was the creation of a "local court cost."[7] Contained in HB 1575 (Section 35), Article 102.0174 of the

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[3] The author of this letter brief was part of Professor Dawson's workgroup that drafted legislation relating to juvenile case managers during the 77th, 78th, and 79th Legislatures. During each of these legislative sessions, provisions of relating to juvenile case managers were included in what was known as the "juvenile omnibus bill." Such bills were compiled by Professor Dawson with the input and cooperation of juvenile justice organizations and practitioners throughout the state, and were sponsored by the Chairs of the House Juvenile Justice and Family Affairs Committees.

[4] The juvenile case manager concept was also intended to help alleviate congestion of dockets in county and district courts designated as juvenile courts. Under Section 51.08(b)(1) of the Family Code, when a child is convicted of two Class C misdemeanors (excluding traffic offenses) municipal and justice courts are required to transfer subsequent allegations of Class C misdemeanors to juvenile court. The exception to this requirement is if the local trial court has a juvenile manager program. In such instances, Section 51.08(d) states "A court that has implemented a juvenile case manager program under Article 45.056, Code of Criminal Procedure, may but is not required to waive its original jurisdiction under Subsection (b)(1)."

[5] Dawson at 499.

[6] *Id.*

[7] While there is no statutory definition of a "local court cost," concept and meaning of the term is recognized by state agencies that are involved in court costs (e.g., Office of Court Administration, Comptroller of Public

Code of Criminal Procedure was modeled after two existing local court costs: the municipal court building security fund[8] and the municipal court technology fund.[9] The constitutionality of such statutes authorizing the collection of local court costs, until now, has not been called into question on the grounds of equal protection because of an obvious rational basis: local governments should not collect a state court cost for a designated purpose if the need does not exist.[10]

The reason that Article 102.0174 addresses municipal, county, justice, and juvenile courts and did not impose a "one size fits all" fee is that the Legislature realized that some local trial courts do not have enough juvenile docket activity to warrant the collection of a juvenile case manager fee. In drafting the legislation, it was realized that such courts do not choose how many juvenile cases are filed in their court and that merely because the need did not currently exist, did not mean that the need would not exist in the future. Accordingly, the Legislature determined that the decision to collect the fee should be deferred to local governments. Furthermore, depending on the volume of cases filed, local governments would set the fee in an amount not to exceed $5 as a cost of court.

Another reason that Article 102.0174 was not written as a mandatory court cost is that some rural counties and cities (even with the juvenile case manager fund) would be unable to afford a juvenile case manager without the cooperation of their neighbors.
Accordingly, Article 45.056(a) of the Code of Criminal Procedure allows for cities and counties to enter into interlocal agreements to collectively fund and operate a juvenile case manager program (e.g., in rural Texas three small towns could partner together or could partner together with the county). In this regard, a juvenile case manager fund is uniquely different from the municipal court building security fund, the municipal court technology fund, or any other local court cost.

Article 102.0174 can only be fairly analyzed in light of the Legislature's intent that local governments are able to determine if there is a need to implement a juvenile case manager program and decide to share the cost through an interlocal agreement provided by Article 45.056. Harris County wholly fails to take this into consideration in its analysis.

Accounts). Such costs include fees authorized pursuant to state statute that are retained to offset expenses related to the operation of the court or that are incidental to the prosecution of a case.

[8] Tex. Crim. Proc. Code Article 102.017 (enacted in 1995).

[9] Tex. Crim. Proc. Code Article 102.172 (enacted in 1999).

[10] While district, county and justice courts have their own statutes governing security and technology fees, the Legislature and the appellate courts have long realized that municipal courts are procedurally different and have needs that are best assessed at the local level. For instance, rural municipal courts that adjudicate a low-volume of cases meet once or twice a year and likely have no actual court facilities. Such cites may not justify the establishment of a security or technology fund.

2. **Case law cited by Harris County is readily distinguishable when applied to Article 102.1074, Code of Criminal Procedure.**

At the heart of Harris County's assertion that Article 102.0174 is unconstitutional are three Texas Court of Criminal Appeals decisions (*Ex parte Sizemore,*[11] *Ex parte Ferguson*[12] and *Ex parte Carson*[13]). The statutes at issue in these decisions are readily distinguishable from Article 102.0174. Significantly, because they were issued between 1928 and 1942, prior to the contemporary era of court costs and fees (1965 – Present), they fail to differentiate between the purpose of a fine which is to punish and deter, and "court costs and fees" (including local court costs) that are used to fund worthwhile programs of both state and local government.[14]

In *Ex parte Sizemore*, a county (in direct contradiction of state law) passed a local law giving misdemeanor defendants fifty cent jail credit per day while state law mandated an allowance of three dollars per day. The law in question, Article 102.1074, unlike the one in *Sizemore*, is not a local law passed in contradiction of state statute; it is a state statute which authorizes a fee contingent on local need to fund a juvenile case manager program.

In *Ex parte Ferguson*, the Court struck down a statute that authorized differing jail credits be given to incarcerated misdemeanants based on the population of the counties where the defendants were jailed. Unlike the statute in *Ferguson*, Article 102.1074 is not based on the population of either a county or of a city. Any city or county, without regard to population, may authorize the collection of the juvenile case manager fee if they have a need to fund a juvenile case manger program.

In *Ex parte Carson*, the Court stuck down a statute mandating a $1 court cost to pay for the operation of county law libraries exclusively in counties with either eight or more district courts and three or more county courts (including county courts-at-law). The effect of the statutes solely benefited Dallas and Harris counties. Such classification was deemed arbitrary and the link between law libraries and the court cost was too attenuated. Unlike the statute in *Carson*, Article 102.1074 does not use a random classification to cast a benefit to any particular county or city. Any city or county, if the local need exists, may authorize the collection of the juvenile case manager fee to fund a juvenile case manger program.

The Attorney General is asked to read the portions of *Carson* cited by Harris County in their historical context and in light of a notable continuing trend in Texas public policy beginning in 1965 to increase court costs.[15] In 1942, the year *Carson* was handed down, the population of Texas was 6,711,000.[16] Since 1942, the population of Texas has increased 350 percent to

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[11] 8 S.W.2d 134 (Tex. Crim. App. 1928).
[12] 132 S.W.2d 408 (Tex. Crim. App. 1939).
[13] 159 S.W.2d 126 (Tex. Crim. App. 1942).
[14] "New Law Focuses on the Collection of Court Costs, and Fines," Office of the Texas Attorney General Crime Victim Services Update (March 2006) *at* http://www.oag.state.tx.us/victims/cvs_update/200603/ collection_costs.shtml.
[15] Between the years 1965 and 2005, court costs in Texas have increased 1,860 percent and are used to fund a wide array of government expenditures. See, Dan Feldstein, "'Loser fees' taking place of new taxes" *Houston Chronicle* (March 5, 2006) at A1.
[16] United States and Texas Populations: 1850-2006 *at* www.tsl.state.tx.us/ref/abouttx/census.html.

23,507,783.[17] With more citizens, the cost of operating the Texas criminal justice system has increased exponentially during the 66 years since the Court spoke in *Carson*. In 1942 it may have been unconscionable for members of the Court to imagine court costs being used to pay for "the cost of the court houses, the automobiles which officers use to apprehend criminals and even the roads upon which they ride," let alone "the education of such attorneys and judges;" [18] today court costs are used to cover the cost of security features in court houses, mileage peace officers drive to transport out-of county-prisoners, local roads, the education of criminal defense lawyers, prosecutors, and, yes, even the education of judges.

This is not to say that there are no limits on the types of costs that may be imposed as court costs. As the Court explained in *Carson*, constitutionally there must be a rational basis that is not too attenuated, citing *Miller v. El Paso County*: "[T]here must be some reasonable relation between their situation and the purposes and object sought to be obtained; there must be something which in some reasonable degree may account for the establishment of the classes."[19]

While Harris County asserts "that it is imperative to review the relationship between the fee to be charged and the purpose of the statute itself," they fail to attempt such a review in their opinion request.[20] As previously explained, in terms of case load, municipal and justice courts in many parts of the state have become *de facto* juvenile courts.

While priority is to be given to cases involving school attendance, the purpose of juvenile case managers is not limited to "truancy prevention." Juvenile case managers provide "services in cases involving juveniles consistent with the court's statutory powers."[21] Harris County asserts that "the work of the juvenile case manager would not appear to be related to all or even most of the fine-only misdemeanors to which it would be applied."[22] This assertion ignores the fact that juvenile cases in municipal and justice court consume considerably more time and court resources than other misdemeanor cases. As a consequence of its relatively recent role in the juvenile justice system, numerous local trial courts have had to reallocate their limited resources to deal with the influx of juvenile cases. This required a shift in resources that impaired the ability of many courts to effectively adjudicate non-juvenile misdemeanor cases. By allowing local governments to collect the juvenile case manager fee, the Legislature provides a rational means for such courts to restore balance in the management of <u>all</u> misdemeanor cases. It is for this reason that the juvenile case manager fee assessed in certain municipal and justice courts is reasonably related to both the juvenile and general adjudication function performed by the courts.

Despite Harris County's overreaching effort to invoke *Carson* to prove otherwise, it is a readily known fact that court costs and fees may not always directly relate to the nature of the alleged offense or the operation of the court in which the defendant is charged.[23] Such fees are common

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[17] *Id.*
[18] *Carson* at 500-501.
[19] 150 S.W.2d 1000 (Tex. 1941).
[20] Letter from the Office of the Honorable Mike Stafford, Harris County Attorney, to Honorable Greg Abbott, Texas Attorney General (March 27, 2005) at 5.
[21] Tex. Crim. Proc. Code Ann. Article 45.056(a)(1) (Vernon 2006).
[22] Letter from the Office of the Honorable Mike Stafford at 5.
[23] See, supra, note 15.

throughout the nation and are woven throughout Texas statutes. They are especially common in states where local trial courts are not funded by state government. While state agencies such as the Office of Court Administration and Comptroller of Public Accounts acknowledge the distinct role of such costs,[24] RQ-0579 is an ideal opportunity to acknowledge the passage of time since *Carson* and distinguish between *fines*, *court costs*, and *fees* in an Attorney General opinion; a distinction lacking in DM-123 (1992) and JC-0098 (1999).

The most recent case cited by Harris County is *Memet v. State.*[25] Relying on *Sizemore*, *Ferguson,* and *Carson*; in *Memet*, the court of appeals reversed the Class B misdemeanor conviction of the owner of a sexually oriented business on the basis that the same criminal offense committed in a municipality with a comprehensive zoning ordinance could have only been charged with a Class C misdemeanor. Thus, defendants in communities with comprehensive zoning ordinances faced the imposition of a fine not to exceed $200, while defendant's in cities without such ordinances potentially faced up to 180 days in jail and a fine not to exceed $1,000. The court found that there was no "rational basis for this distinction."[26] Unlike the statute in *Memet*, the adoption of the juvenile case manager fee pursuant to Article 102.0174 does not authorize the imposition of a qualitatively different penalty. Because statutes like the one in *Memet* involve the possibility of jail time for the same conduct in different geographical locations it involved a liberty interest and invokes a higher level of scrutiny than rational basis. Statutes like Article 102.0174 only require the showing of a rational basis. To reiterate, Article 102.0174 authorizes the imposition of an additional court cost (not to exceed $5) contingent on the determination by local government that their local trial court has a need for a juvenile case manager program. The rational basis for such a statute is apparent: local governments should be able to collect a state authorized fee for a designated purpose if the need exists.

3. Attorney General Opinion JC-0098 and earlier related opinions have been superseded by a district court opinion and case law.

Relying directly on *Carson* and earlier cases discussed above, your predecessor in JC-0098 stated that "collecting fees as 'extras' so that some criminal defendants in the state pay more than others for the same convictions is unconstitutional," and that counties "opting to collect such fees and costs run a substantial risk that such practice will be declared unconstitutional by a different district court or by an appellant court."[27]

Nearly eight years later, as of date, not a single trial or appellate court has accepted the line of authority cited by Harris County and relied on in JC-0098 for the proposition that state statutes that impose additional fees are unconstitutional. To the contrary, all known efforts to utilize *Carson* and its predecessors in such a manner have met rejection in district court.[28]

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[24] Visit the Office of Court Administration at http://www.courts.state.tx.us/pubs/pubs-home.asp and the State Comptroller at http://www.window.state.tx.us/lga/muncourts.,html.
[25] 642 S.W.2d 518 (Tex.App.-Houston [14th Dist. 1982]).
[26] *Memet* at 525.
[27] Tex. Att'y Gen. Op. JC-0098 (1999) at 4.
[28] *In re Trapp*, No. 13965-B (78th Dist. Ct.., Wichita County, Tex. Aug. 24 1992); *Caldwell v. Strayhorn*, No. 99-13088 (261st Dist. Ct., Travis County, Tex. June 2003).

In fact, two years later, the Office of the Attorney General, in *Caldwell v. Rylander*, successfully defended the statute contested in JC-0098 (Section 51.702(b), Government Code) on equal protection, due process and course of law grounds.[29]

Previously in *Rylander v. Caldwell*, the Third Court of Appeals brought the contemporary role of court costs into focus by holding that statutes such as Section 51.702(b) are intended to supplement governmental expenditures, not to criminalize certain behavior.[30] Article 102.0174 is a similar statute intended to supplement juvenile case manager salaries and benefits, not to criminalize or punish certain behaviors. *Rylander* provided an overdue acknowledgment unavailable to the Attorney General when opining JC-0098; specifically, court costs are not punishment.

Since *Rylander*, Section 51.702(b) has been presumed constitutional in a more recent Attorney General opinion.[31] From its inception and especially in light of more recent legal development undermining the authorities cited by Harris County, Article 102.0174 should be afforded the same presumption.

4. Article 102.0174, Code of Criminal Procedure does not violate contemporary notions of equal protection or due process.

Failure to differentiate between "fines" and "fees" violates the Texas Code Construction Act; each term is presumed to have its own meaning, according to the presumption against surplus language and redundancy, and every word should be presumed to have been used for a purpose and given effect if possible.[32]

The imposition of special fees to help fund the operation of a court should not be analyzed as an economic sanction.[33] While certainly such court costs and fees have an economic impact on those ordered to pay, they are administrative in nature, not punitive, and should not be placed in the same category as fines for the purpose of equal protection analysis.[34]

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[29] *Caldwell v. Strayhorn*, No. 99-13088 (261st Dist. Ct., Travis County, Tex. June 2003).
[30] 23 S.W.3d 132 (Tex. App. – Austin 2000) at 138.
[31] Tex. Att'y Gen. Op. GA-0370 (2005) at n.2: "We assume, for purposes of this opinion, that section 51.702(b) is constitutional."
[32] *State v. Hardy*, 963 S.W.2d 516 (Tex. Crim. App. 1997) citing Tex. Gov't Code Ann. Sec. 311.021 (Vernon 2006).
[33] 76 *Judiciature* 195 at n.47.
[34] *State v. Claborn*, 870 P.2d 169 (Okla. Crim. App. 1994) (In prosecution for possession of controlled substances, the trial court erred in declaring provision requiring statutory assessments unconstitutional, where assessments were not 'fines' to be imposed as part of punishment, but were costs or fees appropriately authorized by statute), and *Carter v. City of Norfolk*, 147 S.E.2d 139 (1966) (Statute providing that person convicted of offense which is required to be reported to division of motor vehicles shall, in addition to other costs, penalties, and fines, be assessed sum of $5 to partially defray costs of administration of such division, and that all sums so assessed shall be collectible as other costs due and shall constitute "new source of revenue" for highway purposes, is not constitutionally infirm and assessments made pursuant to its provisions are not "taxes" and can be legally collected).

The equal protection argument presented by Harris County relies solely on *Carson*. *Carson*, however, inadequately addressed federal equal protection precedent at the time,[35] and does not fairly represent Texas equal protection law as it exists today.[36] *Carson* does not cite any of the cases it relied upon, failed to identify the particular constitutional theory or fundamental right allegedly violated, and most importantly ignored the rational basis test. Furthermore, it appears that the primary issue of importance in *Carson* was the finding, based on legislative history, that the statutory classification was intended as a pretext.[37]

Because Article 102.0174 does not, itself, involve the possibility of incarceration, no liberty interest is involved that would trigger a higher level of scrutiny than the rational basis test.[38] As previously explained, Article 102.0174, like other local court cost statutes, is predicated on a commonly accepted rational basis: contingent on the determination by local government that there is a need (in this instance, for a juvenile case manager program) it should be able to collect a state authorized court cost for such a designated purpose.

5. On a public policy level, the consequences of opining Article 102.0174, Code of Criminal Procedure unconstitutional are enormous.

The heart of Harris County's improperly asserted equal protection argument is the notion that there is "considerable probability" that different cost will be imposed for the same offense. TMCEC asserts that such considerable probabilities are inherent throughout Texas statutory law and that such probabilities do not justify labeling a statute unconstitutional on the basis of equal protection or due process.

Texas Code of Criminal Procedure Article 102.0174 is not the only law in the state that can result in variations in assessed court costs. Below are some examples of just a few of the statutes that will be ripe for challenge if Article 102.0174 is labeled unconstitutional:

Municipal Court Building Security Fund - Authorizing municipalities to adopt an ordinance creating a court cost of $3 as a building security fee for courthouse security.[39]

Municipal Court Technology Fund - Authorizing municipalities to adopt an ordinance creating a court cost of up to $4 technology fee to enhance the technological advancements in the court.[40]

[35] *McGowan v. Maryland,* 366 *U.S.* 420; *Salsburg v. Maryland,* 346 *U.S.* 545 (1954); *Missouri v.Lewis,* 101 *U.S.* 22 (1879).
[36] *Richards v. League of United Latin American Citizens*, 868 S.W.2d 306 (Tex. 1993) at 311-12.
[37] *Carson* at 128-129. As pretext is not alleged in Harris County's opinion request, debatably *Carson* is not controlling.
[38] While unpaid fines and fees in criminal cases may be enforced by means of *capias pro fine* (Article 45.045, Code of Criminal Procedure), which does trigger a liberty interest, such fines and fees may also be enforced in the same manner as a judgment in a civil suit under Article 45.047, Code of Criminal Procedure. The constitutionality of such statutes and the manner in which they are employed is outside the scope of the question posed by Harris County.
[39] Tex. Crim. Proc. Code Ann. 102.017 (Vernon 2006).
[40] Tex. Crim. Proc. Code Ann. 102.013 (a) (Vernon 2006).

Pre-trial Intervention Programs – Courts may impose a supervision fee in an amount not to exceed $60.[41]

Municipal Child Safety Fund – Municipalities with a population of more than 850,000 that pass ordinances regulating stopping, standing, or parking of vehicles may collect a court cost of not less than $2 and not more than $5. Municipalities with a population of less than 850,000 that pass ordinances regulating stopping, standing, or parking of vehicles may collect a court cost not more than $5. Such fees are designated for various initiatives related to child safety. Municipalities that have not passed ordinances regulating stopping, standing, or parking of vehicles as authorized by state law are not allowed to collect such costs.[42]

Court Costs in Certain Counties - Justice Court fee in an amount not to exceed $7 for those convicted of a Class C misdemeanor in a county of over 3.3 million.[43]

Criminal Convictions in Comal County - $4 court costs upon conviction in Comal County district or statutory county court and $1.50 upon conviction in justice court (the fee is not collected in municipal courts within the county for the same Class C misdemeanor offenses).[44]

Home Curfew and Electronic Monitoring – Costs may be assessed either as a court cost or may be ordered payable as a condition of bond subject to the discretion of the magistrate setting bond.[45]

"Hot Check Fund" - County and district attorneys have the discretion but are not required to collect a fee for issuance of stolen or bad checks. City attorneys prosecuting the exact same offenses in municipal court are not authorized to collect such costs. [46]

Jury Fees – Defendants convicted of misdemeanors (including Class C misdemeanors) are assessed a $20 jury fee in a county court or county court at law versus $3 in either a municipal or justice court for the exact same offenses.[47]

Services of Peace Officers – Assume that three defendants are accused and convicted of the exact same Class C misdemeanor offense and fined $500. Assume that one defendant is issued a citation, one defendant is arrested pursuant to the issuance of a warrant, and one defendant is summonsed to court. Though each defendant is accused and convicted of the exact same offense and receives the same fine amount, depending on which service of a peace officer is utilized, each of the defendants will pay differing court costs: the defendant issued a citation will pay $5, the defendant arrested pursuant to a warrant will pay $50, the defendant summonsed will pay $35.[48]

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[41] Tex. Crim. Proc. Code Ann. 102.012 (Vernon 2006).
[42] Tex. Crim. Proc. Code Ann. 102.014 (Vernon 2006).
[43] Tex. Crim. Proc. Code Ann. Art. 102.009 (Vernon 2006).
[44] Tex. Hum. Res. Code Sec. 152.0522 (Vernon 2006).
[45] Tex. Crim. Proc. Code Ann. 17.43 (Vernon 2006).
[46] Tex. Crim. Proc. Code Ann. Art. 102.007 (Vernon 2006).
[47] Tex. Crim. Proc. Code Ann. Art. 102.004 (Vernon 2006).
[48] Tex. Crim. Proc. Code Ann. Art. 102.011 (Vernon 2006).

Prosecutor Fee – Authorizing a $25 fee if a misdemeanor or gambling offense is prosecuted by either a county or district attorney. Such a fee may not be collected for the prosecution of the same offense in either justice court or municipal court.[49]

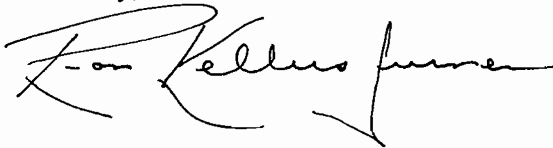
DWI Alcohol Breath Testing Program - Authorizing additional $30 court costs for local governments who choose to operate a DWI alcohol breath testing program.[50]

Collection Contracts – Local governments who choose to hire private sector debt collectors are authorized to impose an additional 30 percent fee above and beyond the fine and court costs owed.[51]

Conclusion

In summation, many state statutes that impose court costs result in geographic differentiation. The unique statute in question, however, may be adopted and collected by all local governments regardless of population or geographic location. The infrastructure of the criminal justice system is built upon cost statutes, like the one at issue here. Article 102.0174 is constitutional and does not violate equal protection or due process. Article 102.0174 is a rational means to support legitimate interests that embraces the important role of local government in decision-making and the vital role of municipal and justice courts in the Texas juvenile justice system.

Sincerely,



Ryan Kellus Turner
General Counsel and Director of Education

[49] Tex. Crim. Proc. Code Ann. Art. 102.008 (Vernon 2006).
[50] Tex. Crim. Proc. Code Ann. Art. 102.016 (Vernon 2006).
[51] Tex. Crim. Proc. Code Ann. Art. 102.0031 (Vernon 2006).