

CHAPTER 1090

S.B. No. 1348

AN ACT

relating to fees and costs that may be charged in a proceeding for a protective order; providing a penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (d), Section 71.04, Family Code, is amended to read as follows:

(d) The fee for filing an application is \$16 and is to be paid to the clerk of the court in which the application is filed. *Except as provided in Section 71.07 of this code, the applicant may not be assessed any other fees, costs, charges, or expenses by the clerk of the court or any other public official in connection with the application.* If the applicant files a sworn statement that the applicant is unable to pay the filing fee and other [court] costs *as provided in Section 71.07 of this code*, the court, on a finding that the statement is true, shall waive the fee and costs that may be due or become due from the applicant. A hearing on the issue of the waiver of the fee and cost, if requested by a party or if required by the court, must be held within three days of the request by a party or of the court's requirement.

SECTION 2. Section 71.07, Family Code, is amended by adding Subsection (c) to read as follows:

(c) *The fee for service of citation charged to the applicant under this section may not be more than:*

- (1) *\$20 if the citation is delivered in person; or*
- (2) *the cost of postage if the service is by registered or certified mail.*

SECTION 3. Section 71.11, Family Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) *A protective order shall require that the person against whom the order is directed:*

(1) *pay the cost of service of the order, the actual costs of court, the costs incurred by the clerk not paid by the applicant pursuant to Section 71.07, Family Code, and any other fees, charges, or expenses incurred in connection with the protective order; and*

(2) *reimburse the applicant for any fees paid by the applicant under this chapter by paying that amount to the clerk of the court.*

(f) *The clerk of a court who receives money according to a protective order from a person against whom the order is directed shall reimburse the applicant for any fees paid by the applicant under this chapter.*

(g) *A person who is ordered to pay costs or reimburse an applicant under Subsection (e) of this section who does not pay the costs or reimburse the applicant before the 60th day after the date the order was rendered may be punished for contempt of court by a fine in an amount not to exceed \$500, or by confinement in jail for a term not to exceed six months, or both.*

SECTION 4. Subsection (a), Section 71.17, Family Code, is amended to read as follows:

(a) A protective order made under this chapter shall be *delivered to [served on]* the person to whom the order applies in open court at the close of the hearing, *or served by registered or certified mail, in accordance with Rule 21a, Texas Rules of Civil Procedure, or served in the same manner as a writ of injunction.*

SECTION 5. This Act applies to fees or costs charged on or after the effective date of this Act. Fees or costs charged before the effective date of this Act are governed by the law in effect at the time the fees or costs were charged, and that law is continued in effect for this purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 8, 1987, by the following vote: Yeas 29, Nays 0; and that the

Senate concurred in House amendment on May 26, 1987, by a viva-voce vote.

Passed the House, with amendment, on May 22, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.