

City of Houston, Texas, Ordinance No. 2020-1

AN ORDINANCE RELATING TO ESTABLISHING UPDATED COURT COSTS COLLECTED BY THE MUNICIPAL COURTS DEPARTMENT; MAKING CHANGES TO VARIOUS SECTIONS OF CHAPTER 16 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, TO ALIGN WITH NEW STATE LAW; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECTS PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, - - - a study by the State's Office of Court Administration identified that, as of January 1, 2018, 143 district criminal court costs in 17 different categories were required to be assessed in Texas, making the criminal court cost system complex and difficult to administer; and

WHEREAS, in *Salinas v. State*, 523 S.W.3d 103 (Tex. Crim. App. 2017), the Texas Court of Criminal Appeals ruled that criminal court costs should only be allocated for "legitimate criminal justice purposes" and that it was unconstitutional to assess criminal court costs as an alternative means of collecting taxes to finance programs that are more properly attached to the executive branch; and

WHEREAS, following *Salinas*, appellate courts ruled that several court costs did not serve a legitimate criminal justice purpose and were thus unconstitutional, causing several local governments to question whether a subsequent loss in revenue would negatively impact vital services; and

WHEREAS, in response to the above described events and concerns, in 2019, the 86th Texas Legislature passed S.B. 346 to consolidate court costs; and

WHEREAS, based on the advice of the City's Municipal Courts Department ("MCD"), City Council finds that Chapter 16 of the City's Code of Ordinances should be amended to align the Code with changes in State law created by S.B. 346; and

WHEREAS, based on the advice of MCD, and pursuant to section 134.154 of the Texas Local Government Code, as amended by S.B. 346, City Council finds that it is necessary to create the Municipal Jury Fund; and

WHEREAS, based on the advice of MCD, and pursuant to sections 134.151 and 134.156 of the Texas Local Government Code, as amended by S.B. 346, City Council finds that it is necessary to change the name of the Juvenile Case Manager Fund to the Local Truancy Prevention and Diversion Fund; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Subsections 16-8(a) and (b) of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“(a) Pursuant to section (a) of article 102.014, Texas Code of Criminal Procedure there is hereby assessed a fine on each parking violation. The fine shall be assessed on every violation to which it appertains under the provisions of the state law.

(b) There is hereby created within the treasury of the city a fund to be designated as the child safety fund. The fund shall consist of those fees and fines that are payable into the fund as provided in section 106.002 of the Texas Local Government Code.”

Section 3. That Section 16-9 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 16-9. Juvenile case managers; local truancy prevention and diversion fund.

(a) As authorized by article 45.056 of the Texas Code of Criminal Procedure, as approved by city council, the municipal courts department may employ a juvenile case manager to perform the duties contemplated in subsections (a) and (c) of article 45.056.

(b) As required by article 45.056, the city council has adopted rules for juvenile case managers, which are set forth in Exhibit A to Ordinance No. 2011-993 and specifically include a code of ethics with an enforcement procedure, educational pre-service and in-service training standards, and the training described in article 45.056.

(c) As required by article 45.056, the presiding judge, on behalf of the municipal courts department, shall implement the rules adopted by the city council.

(d) As authorized by sections 134.151 and 134.156, of the Texas Local Government Code, there is hereby created a local truancy prevention and diversion fund, which shall consist of the portion of the local consolidated fee allocated to the fund in section 134.103 of the Texas Local Government Code. The fund shall be administered under the direction of city council and may only be used to finance the salary, benefits, training, travel expenses, office supplies, and other necessary

expenses relating to the position of a juvenile case manager employed under article 45.056.”

Section 4. That Section 16-10 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 16-10. Municipal courts building security fund.

(a) As authorized by article 102.017 of the Texas Code of Criminal Procedure, there is hereby created a municipal courts building security fund.

(b) The fund created in subsection (a) shall consist of the portion of the local consolidated fee allocated to the fund in section 134.103 of the Texas Local Government Code. The fund shall be administered under the direction of the city council and may only be used to finance security equipment and services for buildings that house a municipal court as more particularly provided by article 102.017(b).”

Section 5. That Section 16-13 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 16-13. Municipal court technology fund.

(a) As authorized by article 102.0172 of the Texas Code of Criminal Procedure, there is hereby created a municipal courts technology fund.

(b) The fund created in subsection (a) shall consist of the portion of the local consolidated fee allocated to the fund in section 134.103 of the Texas Local Government Code. The fund shall be administered under the direction of city council and may only be used to finance the purchase and maintenance of technological enhancements for the municipal courts of record as more particularly provided in article 102.0172(b).”

Section 6. That the Code of Ordinances, Houston, Texas, is hereby amended by adding new Sections 16-14 and 16-15 to read as follows:

“Sec. 16-14. Municipal jury fund.

(a) As authorized by Section 134.154 of the Texas Local Government Code, there is hereby created a municipal jury fund.

(b) The fund created in subsection (a) shall consist of the portion of the local consolidated fee allocated to the fund in section 134.103 of the Texas Local Government Code. The fund shall be maintained in the city treasury and may be used only to fund juror reimbursements and otherwise finance jury services, as provided in section 134.154 of the Texas Local Government Code.

Sec. 16-15. Local consolidated fee.

(a) A person convicted of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, shall pay a local consolidated fee in the amount dictated by section 134.103 of the Texas Local Government Code as a court cost, in addition to all other costs, on conviction.

(b) The treasurer shall allocate the court costs received under this section as directed in section 134.103 of the Texas Local Government Code.”

Section 8. That the City Council hereby approves and authorizes the creation of the Municipal Jury Fund with zero beginning fund balance for the purposes set out in Section 16-14 of the Code of Ordinances, Houston, Texas, as amended by this Ordinance.

Section 9. That the City Council hereby approves and authorizes the appropriation of any and all funds received into the Municipal Jury Fund for the purposes set out in Section 16-4 of the Code of Ordinances, Houston, Texas, as amended by this Ordinance and approves and authorizes the expenditures of the appropriated funds for the purposes set out therein.

Section 10. That City Council hereby renames the Juvenile Case Manager Fund, originally created under Ordinance No. 2007-1297, to “Local Truancy Prevention and Diversion Fund.”

Section 11. That the Director of Finance shall remove the following fees from the City Fee Schedule:

Description	Current Amount
Juvenile Case Manager Fee	\$5.00
Building Security Fee	\$3.00
Court Technology Fee	\$4.00

Section 12. That the Director of Finance shall amend the City Fee Schedule to include the following fee:

Description	Statutory Authority	Amount
Local Consolidated Fee	Tex. Local Gov't Code § 134.103	\$14.00

This fee shall not be subject to the annual fee increase under Section 1-13 of the Code of Ordinances, Houston, Texas.

Section 13. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, to make such non-substantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 14. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in

adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 15. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 8th day of January, 2020.

APPROVED this 8th day of January, 2020.

Sylvester Turner _____
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. _____
RAW:JWG:jmb 1/2/2019 Assistant City Attorney
Requested by J. Elaine Marshall, Presiding Judge, Municipal Courts Department
L.D. File No. 0441900029001