

SUPREME COURT OF LOUISIANA

REPORT OF THE JUDICIAL COUNCIL

To The

LOUISIANA STATE LEGISLATURE

Regarding

**REQUESTS FOR COURT COSTS AND FEES
(La. R.S. 13:62)**



March 1, 2019

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Introduction

La. R.S. 13:62 provides for the Judicial Council's involvement in the review of court costs and fees. Prior to the 2018 legislative session, the statute read in pertinent part as follows:

“No law to provide for a new court cost or fee or to increase an existing court cost or fee shall be enacted unless first submitted to the Judicial Council for review and recommendation to the legislature as to whether the court cost or fee is *reasonably related to the operation of the courts or court system.*” La. R.S. 13:62 (B). (Emphasis added.)

During the 2018 legislative session, La. R.S. 13:62 was amended to read in pertinent part as follows:

“No law to provide for a new court cost or fee or to increase an existing court cost or fee shall be enacted unless first submitted to the Judicial Council for review and recommendation to the legislature. *Such review and recommendation shall include, but not be limited to, factors such as to whether the court cost or fee is reasonably related to the operation of the courts or court system.*” (Emphasis added.)

Protocol for Reviewing Court Cost Requests

In response to the change in the standard of review for court cost and fee requests, the Council promulgated new guidelines to be used by the Court Cost Committee when reviewing these requests. The new guidelines are as follows: Upon receipt of a proper request, the Council shall forward the request to the Court-Cost Committee which shall apply the following analyses:

(a) **Analysis of the Purpose of the Court Cost or Fee.** On the basis of the information supplied in the request forms and from such other information that may be gathered, the Court Cost Committee shall analyze whether the proposed court cost or fee is for an appropriate purpose. This analysis includes whether the proposed court cost or fee is reasonably related to the operation of the courts or the court system. The analysis of relatedness shall turn generally on whether revenue generated from the imposition of the proposed cost or fee will be used:

- to support a court or the court system or help defray the court-related operational costs of other agencies;
- to support an activity in which there is a reasonable relationship between the fee or court cost imposed and the costs of the administration of justice.

Court-related operational costs are defined in the Court Cost Guidelines as follows:

“costs that are in *direct support* of the pre-adjudicative, adjudicative, and post-adjudicative functions of a court, including but not limited to: training; data sharing; law enforcement service of process; court reporting; pro se assistance; certain treatment programs sponsored or closely affiliated with the courts; bailiff services; short-term detention; probation legal representation; prosecution; legal research; court-related technologies; informal adjudicative programs such as diversion, alternative dispute resolution, restorative justice, pre-trial and such other *programs that are either sponsored by or closely affiliated with the courts.*” (Emphasis added.)

(b) **Analysis of the Intended Recipient's Finances.** On the basis of the financial information submitted by the requesting entity, the Committee shall analyze the information to determine whether the requesting organization or the recipient organization has the financial means to fund the proposed purpose without the need for a new court cost or fee or an increase in an existing court cost or fee.

(c) **Analysis of the Need for the Cost or Fee.** The requesting or recipient organization must provide a letter from the governing authority that certifies the reasons for not asking for the needed funds in an appropriation or why it cannot or will not ask the public at large to provide the needed funds. If the requesting or recipient organization -- despite its best efforts -- is unable to secure such a letter from the governing authority, then the requesting or recipient organization must provide its own letter to the Council: (i) describing in detail what efforts it made to attempt to secure such a letter from the governing authority; and (ii) certifying that the governing authority has failed or refused to provide such a letter.

(d) **Analysis of the Probable Yield of the Court Cost or Fee.** On the basis of information gathered from the recipients of existing court costs and fees in Louisiana, the Committee shall analyze and calculate the probable yield of the proposed court cost or fee.

(e) **Analysis of the Impact of the Court Cost or Fee.** On the basis of information gathered from the requesting entity, the recipients of existing court costs or fees in Louisiana, and data from other states, the Committee, with assistance from its staff, shall analyze and determine the types of persons who are likely to bear the burden of paying the new court cost or fee or the increase in the existing court cost and fee and whether the additional burden from the court cost and fee, when added to the burden of existing court cost and fees, would affect in any significant way access to justice or would be unfair to a class of court users.

(f) **Cost-Benefit Analysis.** On the basis of information submitted by each requesting organization, the Committee shall evaluate the costs and benefits of the proposed court cost or fee.

Review of Application

One request for new or increased court costs that appeared to be eligible for Judicial Council review was enacted by the legislature during the 2018 regular legislative session, without prior review by the Judicial Council. Although it is required under La. R.S. 13:62(B), the applicant, The Louisiana City Marshals and City Constables Association, did not submit an application for consideration of the fee increases to the Judicial Council prior to pursuing legislation for the increase during the 2018 regular session. This legislation, 2018 HB 315 became Act 457 of 2018. During the legislative process, Section 2 of HB 315/Act 457 was amended to condition the effective date of the increased fees upon a recommendation by the Judicial Council in its 2019 Report to the Legislature that such court cost or fee increases meet the applicable guidelines.

Applicant submitted a timely application for the 2018-2019 court cost review cycle. A summary of the request, including the action taken by the Judicial Council, follows.

Applicant Name: Louisiana City Marshals and City Constables Association
Applicant Number: 19-001

Overview of the Request

The Louisiana City Marshals and City Constables Association is seeking a favorable recommendation from the Judicial Council regarding its interest in implementing legislation passed during the regular 2018 legislative session to increase to \$30.00 the fees collected for 25 different services provided by the marshals and constables for civil matters. Current fees range from \$9.50 - \$28.50.

History and Statutory Authority for Imposition of Court Costs

City marshals and city constables are the executive officers for city courts. City constables are not the same as the ward constables that serve justice of the peace courts. City constables serve in Baton Rouge and Orleans Parishes; marshals serve in all other parishes.

La. R.S. 13:5807 currently authorizes city marshals and constables to charge set fees for 25 services provided in civil matters, including service and returns, execution of writs and

court orders, executing writs of possession or ejectment, service of each notice to vacate on defendants or occupants, preparing advertisements for newspapers, and actions taken to do anything further to obtain possession of property when the defendant or occupant does not vacate the premises after service of the notice to vacate. Applicant is requesting an increase in those fees to \$30.00. Currently those fees range from \$9.50 to \$28.50.

Amount of New Court Cost (Increase)

The current costs range from \$9.50 to \$28.50. Applicant is requesting that the costs all be raised to \$30. Cost increase percentages are as follows:

| Number of Fees Increased at Each Price Level | Actual Increase | Percentage Increase |
|---|------------------------|----------------------------|
| 1 | \$ 9.50 to \$30 | 216% |
| 13 | \$10 to \$30 | 200% |
| 2 | \$10.50 to \$30 | 186% |
| 6 | \$11.50 to \$30 | 161% |
| 1 | \$12.50 to \$30 | 140% |
| 1 | \$14.50 to \$30 | 107% |
| 1 | \$28.50 to \$30 | 5% |

Purpose of the Proposed Increase

The applicant states that the revenue to be generated from the imposition of the increased court costs will be used to cover the marshals’ and city constables’ operational expenses and salaries.

Act 457 of 2018 mandates that 60% of the funds collected for the services listed above must be used to “assist in funding the purchase or updating of necessary equipment and officer training to carry out the efficient performance of all duties imposed by law on constables and marshals. These funds shall be deposited into an equipment and training fund which shall be subject to and included in the constables' and marshals' annual audit.”

Relatedness of the Cost or Fee

Among the appropriate purposes for which court costs or fees may be requested are:

- to support a court or the court system or to help defray the court-related operational costs of other agencies;
- to support an activity in which there is a reasonable relationship between the fee or court cost imposed and the costs of the administration of justice.

It appears that the proposed increase in fees directly supports the court and will be used to support activities which are reasonably related to the administration of justice.

Analysis of the Intended Recipient’s Finances/Need for the Cost or Fee

Because the increase will apply to each of the marshals and constables regardless of need or finances, an analysis of an applicant’s need or finances is not included.

Analysis of the Probable Yield of the Court Cost

From the estimates submitted by the approximately 40% (17 of 42) of the marshals who replied to a request for information, it appears that revenues for the services for which the increases are requested will increase between 105% and 186%. The total increase for the 40% of the marshals that submitted estimates is \$1,156,697.

Analysis of the Impact of the Court Cost

Because the services for each civil suit vary in relation to the type and complexity of the suit, it is not possible to determine the actual impact of the increase upon litigants in general. However, below is the analysis of the increase in the initial filing of a civil suit with one service in various jurisdictions. The costs were obtained from the website of each court.

| Court | Cost for a Civil Suit with One Service | Adjusted Cost (with increase) | % Increase |
|--------------------------------|---|--------------------------------------|-------------------|
| Shreveport City Court | \$126 | \$146 | 16% |
| Monroe City Court | \$120 | \$140 | 17% |
| Houma City Court | \$240 | \$260 | 8% |
| Lake Charles City Court | \$175 | \$195 | 11% |
| Hammond City Court | \$175 | \$195 | 11% |
| Natchitoches City Court | \$250 | \$270 | 8% |

Judicial Council Recommendation

The Judicial Council voted to recommend the cost.

EXHIBIT A

La. R.S. 13:62

La. R.S. 13:62. Court costs and fees; submission to Judicial Council; recommendation

A. As used in this Section, the following words have the meanings ascribed to them unless the context requires otherwise:

(1) "Court cost and fee" means a cost or fee paid, or to be paid, by a person to the clerk of court or sheriff, or other law enforcement official responsible for receiving the payment of costs or fees collected as a part of the imposition or execution of a criminal sentence, in connection with the filing or processing of any civil or criminal matter, or the filing or processing of any pleading in any civil or criminal matter or in connection with the imposition or execution of a sentence by a court having criminal jurisdiction, in a court of limited or general jurisdiction.

(2) "Court of limited or general jurisdiction" means district court, family court, juvenile court, city court, parish court, municipal court, and traffic court.

B. No law to provide for a new court cost or fee or to increase an existing court cost or fee shall be enacted unless first submitted to the Judicial Council for review and recommendation to the legislature. Such review and recommendation shall include, but not be limited to, factors such as whether the court cost or fee is reasonably related to the operation of the courts or court system. A copy of the proposal for a new or increased court cost or fee shall be submitted to the Judicial Council no later than October fifteenth of the calendar year before the proposal is intended to be introduced in the legislature, and a copy shall be provided to the legislature, through the clerk of the House of Representatives and the secretary of the Senate, at the time it is submitted to the Judicial Council for review. The Judicial Council shall notify the legislature of its recommendation, through the clerk of the House of Representatives and the secretary of the Senate, by March first of each year.

C. The provisions of this Section shall apply only to court costs or fees, or increases to an existing court cost or fee to be charged or collected by the supreme court, courts of appeal, district courts, city courts, parish courts, juvenile courts, family courts, traffic courts, or municipal courts. The provisions of this Section shall not apply to mayor's courts, magistrate courts, or justice of the peace courts.

Acts 2003, No. 202, §1; Acts 2011, No. 245, §1; Acts 2018, No. 553, §1.

EXHIBIT B

General Guidelines of the Standing Committee
to Evaluate Requests for Court Costs and Fees

**GENERAL GUIDELINES RELATING TO THE
EVALUATION OF REQUESTS FOR COURT COSTS AND FEES**

1. **Purpose and Scope.** The following Guidelines are hereby promulgated by the Judicial Council to guide the process of submitting and evaluating requests for new court costs and fees or increases in existing court costs and fees pursuant to R.S. 13:62 (Act 202 of the 2003 Regular Legislative Session).

2. **Definitions.** For the purpose and scope of these Guidelines, the following terms shall have the following meanings:

(a) *“Court cost”* means a specific charge or cost, or a range of specific charges or costs, or a specific percentage of an amount of costs, or a limit of an amount of cost that is used to defray the operational costs of courts and the court-related operational costs of law enforcement, clerks of court, district attorneys, the indigent defense system, state and local probation and parole functions, and other court-related functions, and that has been authorized by state law and levied by a court to be collected from a person convicted of, or pleading guilty to, or forfeiting a bond with respect to, certain specified crimes or pre-delinquent and delinquent acts.

(b) *“Court-related operational costs”* mean those operational costs that are in direct support of the pre-adjudicative, adjudicative, and post-adjudicative functions of a court, including but not limited to: training; data sharing; law enforcement service of process; court reporting; pro se assistance; certain treatment programs sponsored or closely affiliated with the courts; bailiff services; short-term detention; probation legal representation; prosecution; legal research; court-related technologies; informal adjudicative programs such as diversion, alternative dispute resolution, restorative justice, pre-trial and such other programs that are either sponsored by or closely affiliated with the courts.

(c) *“Courts”* mean the district courts, the juvenile and family courts, the city, parish, municipal, and traffic courts, the justices of the peace, and the mayor's courts.

(d) *“Fee”* means a charge or cost or a range of specific charges or costs, or a specific percentage of an amount of costs, or a limit of an amount of cost that is used to defray the operational costs of the courts or the court-related operational costs of the clerks of court or other court-related functions, and that has been authorized by state law to be collected from a person either filing a document in any civil or criminal proceeding with the clerk of court, appearing in a civil matter before a court, failing to fulfill a condition of release, or meeting a condition of probation or other court order.

(e) *“The Standing Committee to Evaluate Requests for Court Costs and Fees”*, hereinafter referred to as the *“Court Cost Committee”*, or the *“Committee”* means that information-gathering and advisory arm of the Judicial Council created to develop and apply guidelines for evaluating requests for new court costs and fees or increases in existing court costs

and fees prior to the submission of such requests to the legislature, and to report the Committee's findings and recommendations to the Judicial Council.

3. **Included Costs and Charges.** For the purposes of these Guidelines, the costs and charges to be reviewed and evaluated by the Judicial Council include court costs and fees as herein defined. These court costs and fees also include any cost or charge for which state legislation is being sought to modify an existing cost or charge currently set exclusively by court rule or local ordinance, and any cost or charge currently authorized by state law as to specific amount, range of amount, or a percentage of an amount, or limit of amount for which new legislation is being sought to eliminate any specificity as to amount and thus to allow the court or other entity to set the rates or amounts.

4. **Excluded Costs and Charges.** For the purposes of these Guidelines, the terms “court cost” and “fee” do not include:

- . Fines or other monetary criminal or civil penalties that are authorized by law to be imposed on offenders upon their admission of guilt or upon conviction;
- . Court proceeding costs not specified by state law as to amount, range of amount, percentage of amount, or limits of amount but left to a judge to determine and set as a means of defraying in whole or in part the cost of a specific litigation;
- . Non-judicial costs and fees not having any direct relationship with a court proceeding that are authorized by law to be assessed and collected by an executive department or agency of government, e.g. fees and costs assessed and collected by health, environmental, general governmental, correctional, and other agencies of the executive branch;
- . Asset sales or property forfeitures;
- . Costs or charges paid by one governmental body to another whether involving courts or not;
- . Court reporter fees and costs that are not specified by law or court rule as to amount, range of amount, or limit of amount but are determined and assessed by a court as part of the court cost of a specific proceeding;
- . Fees and court costs enacted by local ordinance and not authorized by state law, except in the case of those fees and court costs enacted by ordinance for which state legislation is being sought to set an amount, or a range of amount, or a percentage of an amount, or a limit of an amount;
- . Other Court–related Fees, Costs, and Charges that are not specified by state law as to amount, range of amount, percentage of amount, or limit of amount, except in the case of those court-related and court-specified fees, costs, and charges for which new state legislation is being sought to set an amount, or a range of amount, or a percentage of an amount, or a limit of an amount.

5. **Eligible Requests.** The Judicial Council of the Supreme Court shall consider any request for an included new court cost or fee or an increase in an existing court cost or fee provided the request is submitted on the application form and in the manner required by the Council and signed by the chief officer of the requesting entity and provided the requesting entity includes with the duly signed form the following financial information:

(1) its previous year's annual financial statement, including balance sheets and income statements; (2) its most recently audited financial statement; (3) its current annual budget; and (4) a separate budget indicating the anticipated revenues and types of expected expenditures resulting from the enactment of your proposal for new or increased fees or court costs. If the requesting organization is submitting the request on behalf of a recipient organization, please submit the above-specified financial information on the recipient organization as well. Please note that the Committee may request additional financial information, only if it deems such information to be appropriate and necessary for the Committee's effective review and analysis of the proposal.

6. **Deadline for Submission of Requests.** In each year, the deadline for the receipt of requests shall be **October 15th** of the calendar year prior to the year the request is proposed to be introduced into the legislature.

7. **Assignment of Request to Committee.** Upon receipt of a proper request, the Council shall forward the request to the Court-Cost Committee which shall apply the following analyses:

(a) **Analysis of the Purpose of the Court Cost or Fee.** On the basis of the information supplied in the request forms and from such other information that may be gathered, the Court Cost Committee shall analyze whether the proposed court cost or fee is for an appropriate purpose. Among the appropriate purposes for which court costs or fees may be requested are:

- to support a court or the court system or help defray the court-related operational costs of other agencies;
- to support an activity in which there is a reasonable relationship between the fee or court cost imposed and the costs of the administration of justice.

(b) **Analysis of the Intended Recipient's Finances.** On the basis of the financial information submitted by the requesting entity, the Committee shall analyze the information to determine whether the requesting organization or the recipient organization has the financial means to fund the proposed purpose without the need for a new court cost or fee or an increase in an existing court cost or fee.

(c) **Analysis of the Need for the Cost or Fee.** The requesting or recipient organization must provide a letter from the governing authority that certifies the reasons for not asking for the needed funds in an appropriation or why it cannot or will not ask the public at large to provide the needed funds. If the requesting or recipient organization -- despite its best efforts -- is unable to secure such a letter from the governing authority, then the requesting or recipient organization must provide its own letter to the Council: (i) describing in detail what efforts it made to attempt to secure such a letter from the governing authority; and (ii) certifying that the governing authority has failed or refused to provide such a letter.

(d) **Analysis of the Probable Yield of the Court Cost or Fee.** On the basis of information gathered from the recipients of existing court costs and fees in Louisiana, the Committee shall analyze and calculate the probable yield of the proposed court cost or fee.

(e) **Analysis of the Impact of the Court Cost or Fee.** On the basis of information gathered from the requesting entity, the recipients of existing court costs or fees in Louisiana, and data from other states, the Committee, with assistance from its staff, shall analyze and determine the types of persons who are likely to bear the burden of paying the new court cost or fee or the increase in the existing court cost and fee and whether the additional burden from the court cost and fee, when added to the burden of existing court cost and fees, would affect in any significant way access to justice or would be unfair to a class of court users.

(f) **Cost-Benefit Analysis.** On the basis of information submitted by each requesting organization, the Committee shall evaluate the costs and benefits of the proposed court cost or fee.

8. **Committee Reporting.** Upon completion of the analyses described above, the Committee shall vote favorably or unfavorably on each request. The Committee shall then present its findings and recommendations, and any withdrawn requests, at the next meeting of the Judicial Council in which the Council is expected to receive and consider the Committee's recommendations. A summary of the report of the Committee shall be provided in the minutes of each meeting of the Council. In the event that a meeting of the Judicial Council is cancelled due to the withdrawal of a request for a new court cost or fee, the Committee shall provide a report on the withdrawal at the next meeting of the Council.

9. **Voting by Ballot.** Members of the Judicial Council may vote on the ballot sheets provided at each meeting for or against a request for a new court cost or fee, or may vote to abstain or to be recused from voting. The results of such balloting shall be read by the secretary and reported as favorably or unfavorably considered. The individual vote of each member, for or against or to abstain or to be recused, shall be recorded in the minutes of the Judicial Council.

10. **Recusal.** Any member of the Committee to Review and Comment on New Court Costs and Fees or any member of the Judicial Council who is a member of the intended recipient for which a new court cost or fee has been requested or who may have a personal, family, or financial interest in the new court cost or fee, shall recuse him-or-herself from voting on the request, and shall note for the record the recusal and the factual basis therefor.

11. **Advocacy and Lobbying.** An advocate for or against a new court cost or fee is encouraged to make his position known to each member of the Committee and the Council in writing. However, the advocate shall not contact any Committee or Council member in person or by phone. Any member of the Committee or the Council who is so contacted shall disclose the contact at all meetings in which the action shall be considered and such disclosure shall be reported in the minutes of the Judicial Council.

12. **Quorum.** A quorum of a majority of members is necessary to vote on all official actions of the Council.

13. **Emergency Situations.** In emergency situations or in other circumstances deemed necessary, the Chair of the Council may, in his discretion, authorize the use of mail-in or electronically transmitted ballots to allow or facilitate voting on matters before the Council.

14. **Chronology of Key Events.** The timetable of the key events of the process of review and comment on new court costs and user fees shall be:

15. The Request should be submitted on the attached form.

October 15th of each year Deadline for Submission of Court Cost Proposals intended to be introduced into the legislature the next calendar year

December - February Committee hearing on proposals and completion of review by Committee.

January or February Judicial Council meeting.

March 1 Report of the Judicial Council sent to the legislature.

EXHIBIT C

Members of the Judicial Council
and
Members of the Standing Committee
to Evaluate Requests for Court Costs and Fees

Members of the Judicial Council

Honorable Bernette J. Johnson, Chair
Chief Justice, Supreme Court of Louisiana

Honorable Greg Guidry
Associate Justice, Supreme Court of Louisiana

Honorable John Michael Guidry
representing Conference of Court of Appeal Judges

Honorable Marc Johnson
representing Conference of Court of Appeal Judges

Honorable Daniel Ellender
representing Louisiana District Judges Association

Honorable Ramona Emanuel
representing Louisiana District Judges Association

Honorable Roy Cascio
representing Louisiana City Judges Association

Honorable Kim Stansbury
representing Louisiana Council of Juvenile and Family Court Judges

Honorable Pamela Baker (non-voting)
representing Louisiana Council of Juvenile and Family Court Judges

Richard Leefe, Esq.
representing Louisiana State Bar Association

Collin Melancon, Esq.,
representing Young Lawyers Section of the LSBA

Leo C. Hamilton, Esq.
representing Louisiana State Law Institute

Honorable Dan Claitor
Louisiana State Senate

Honorable Katrina Jackson
Louisiana House of Representatives

Members of the Judicial Council (Continued)

Honorable Scott M. Perrilloux
representing Louisiana District Attorneys Association

Honorable Freddie Pitcher, Jr. (retired)
Representing the Louisiana Public Defender Board

Todd S. Clemons, Esq.
representing the Louisiana State Bar Association

Honorable David Dart
representing Louisiana Clerks of Court Association

Dr. Sarah Moody-Thomas
Citizen Representative

Honorable John L. Weimer, III
Associate Justice, Supreme Court of Louisiana

Ex-Officio (Non-voting)

Honorable Marcus Clark
Associate Justice, Supreme Court of Louisiana

Ex-Officio (Non-voting)

Honorable Jefferson Hughes
Associate Justice, Supreme Court of Louisiana

Ex-Officio (Non-voting)

Honorable Scott Crichton
Associate Justice, Supreme Court of Louisiana

Ex-Officio (Non-voting)

Honorable James T. Genovese
Associate Justice, Supreme Court of Louisiana

Ex-Officio (Non-voting)

Sandra Vujnovich
Judicial Administrator
Louisiana Supreme Court

Staff (Non-voting)

**Members of the Judicial Council's Standing Committee to
Evaluate Requests for Court Costs and Fees**

Judge Paul A. Bonin, Chair
Orleans Parish Criminal District Court

Judge Vincent Borne
16th Judicial District Court

Judge Roy Cascio
2nd Parish Court of Jefferson

Judge William Crain
First Circuit Court of Appeal

Mr. David Dart
Clerk of Court, East Feliciana Parish

Judge Ramona Emanuel
1st Judicial District Court

Steven C. Lanza, Esq.
Citizen Member

Judge Tarvald Smith
Baton Rouge City Court

Staff (non-voting)
Julia C. Spear
Deputy Judicial Administrator/Judicial Council
Louisiana Supreme Court