



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

September 5, 1973

Honorable Ken Andrews  
County Attorney  
Young County  
Graham, Texas

Opinion No. H- 95

Re: Whether probation fee  
may be collected from  
persons placed on pro-  
bation after conviction  
for misdemeanor

Dear Mr. Andrews:

You have requested the opinion of this office on two questions:

"1. Whether the person placed on probation under a misdemeanor can be made to pay a probation fee of not more than \$10.00 per month?

"2. Who collects the probation fee?"

You comment that:

"Under Article 42.12 the felony probation law, the District Judge may assess a probation fee not to exceed \$10.00 per month as a term of the probation.

"We are unable to find any authority under which a misdemeanor defendant who has been placed on probation can be made to pay a probation fee."

Article 42.13 of the Texas Code of Criminal Procedure, the Misdemeanor Probation Law, does not contain any provision for charging a misdemeanor defendant a supervisory or probation fee.

However, §§ 6(a) and 12, respectively, of Article 42.12 of the Texas Code of Criminal Procedure, the Adult Probation and Parole Law, provide:

"Sec. 6a. (a) A court granting probation may fix a fee not exceeding \$10 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

". . .

"Sec. 12. The provisions of Sections 6a, 10, and 11 of this Article also apply to Article 42.13."

The above provision of § 12 of Article 42.12 authorizes charging a probation or supervisory fee to a misdemeanor defendant who has been placed on probation, if the court so directs.

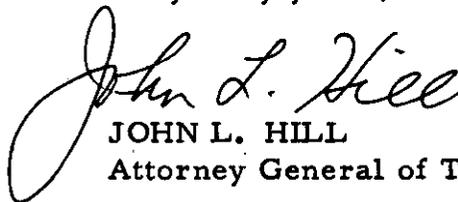
Attorney General's Opinion C-648 holds to the contrary; however this opinion was written before the enactment of the above sections 6a(a) and 12 of Article 42.12.

In answer to your second question, § 6a(a) provides that the fee is "to be paid to the court by the probationer" and § 6a(b) provides that "the court shall distribute the fees [in the matter provided]". It is our opinion, therefore, that the fee is to be collected by the court or at least under the court's direction.

#### S U M M A R Y

The court may direct the payment of a probation fee of a misdemeanor defendant who has been placed on probation, such fee to be collected by or under the direction of the court.

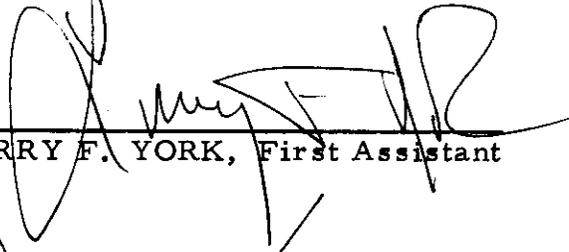
Very truly yours,



JOHN L. HILL

Attorney General of Texas

APPROVED:



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LARRY F. YORK, First Assistant



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DAVID M. KENDALL, Chairman  
Opinion Committee