



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

May 2, 1990

Honorable Phil Nichols
Erath County Attorney
Courthouse
Stephenville, Texas 76401

Opinion No. JM-1172

Re: Authority of a sheriff
to impose a \$20 fee on an
inmate who is released on
bond (RQ-1944)

Dear Mr. Nichols:

You ask whether a sheriff has authority to impose a \$20 fee on an inmate at the time a bail bond is filed for his release. Your question necessitates a review of the statutes authorizing the assessment of a fee against a defendant for taking and approving a bond.

Article 102.011 of the Code of Criminal Procedure provides in relevant part:

(a) A defendant convicted of a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

. . . .

(5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse. (Emphasis added.)

Article 17.42(a) of the Code of Criminal Procedure, as added by Senate Bill 1451 of the 71st Legislature, provides:

(a) A court, magistrate, or peace officer shall collect a \$2 fee from a defendant charged with an offense other than a misdemeanor punishable by fine only on the release of the defendant on bail bond or personal bond. The court, magistrate, or peace officer may waive the fee for good cause shown.

Acts 1989, 71st Leg., ch. 698, at 3207 (eff. Sept. 1, 1989).

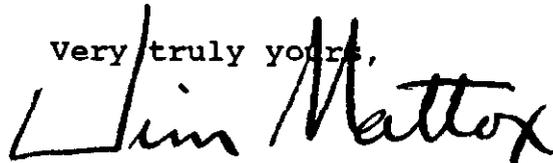
Article 17.42, as added by Senate Bill 211 in 1989, provides for the creation of a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond. Acts 1989, 71st Leg., ch. 2, § 5.01(a), at 127. The court is authorized to assess a personal bond fee of \$20 or three percent of the amount of bail, whichever is greater, if the court releases the defendant upon the recommendation of the personal bond office. Fees collected under this provision may be used to defray the expenses of the personal bond office, including the expenses of extradition.

The fee authorized for taking and approving a bond under article 102.011 is only payable upon conviction. Article 17.42(a), as added by Senate Bill 1451 in 1989, authorizes a court, magistrate, or a peace officer to collect a \$2 fee from a defendant charged with a misdemeanor (other than one punishable by fine only) on the release of the defendant on bail bond or personal bond. Under the provisions of article 17.42 as added by Senate Bill 221, the court assesses the fee in cases where the court releases the defendant on personal bond upon recommendation of the personal bond office. We find no provision authorizing the sheriff to impose a \$20 fee at the time a bail bond is filed.

S U M M A R Y

A sheriff may not impose a \$20 fee for the release of an inmate at the time a bail bond is filed.

Very truly yours,



J I M M A T T O X
Attorney General of Texas

MARY KELLER
First Assistant Attorney General

JUDGE ZOLLIE STEAKLEY
Special Assistant Attorney General

RENEA HICKS
Special Assistant Attorney General

RICK GILPIN
Chairman, Opinion Committee

Prepared by Tom G. Davis
Assistant Attorney General