

By: West

S.B. No. 544

A BILL TO BE ENTITLED

AN ACT

relating to reimbursement for the costs of legal services provided to an indigent defendant in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 26.05(g), Code of Criminal Procedure, is amended to read as follows:

(g) If the court determines that a defendant has financial resources that enable the defendant ~~[him]~~ to offset in part or in whole the costs of the legal services provided in accordance with Article 1.051(c) or (d), including any expenses and costs, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs the amount that it finds the defendant is able to pay. The defendant may not be ordered to pay an amount that exceeds the actual costs paid by the county for the legal services provided, including any expenses or costs. If the defendant was represented by a public defender's office, the actual costs of the legal services provided is the amount that would have otherwise been paid to an appointed attorney, including any expenses or costs.

SECTION 2. Sections 11(a) and (b), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time during the period of community supervision, alter or

1 modify the conditions. The judge may impose any reasonable
2 condition that is designed to protect or restore the community,
3 protect or restore the victim, or punish, rehabilitate, or reform
4 the defendant. Conditions of community supervision may include,
5 but shall not be limited to, the conditions that the defendant
6 shall:

7 (1) Commit no offense against the laws of this State or
8 of any other State or of the United States;

9 (2) Avoid injurious or vicious habits;

10 (3) Avoid persons or places of disreputable or harmful
11 character, including any person, other than a family member of the
12 defendant, who is an active member of a criminal street gang;

13 (4) Report to the supervision officer as directed by
14 the judge or supervision officer and obey all rules and regulations
15 of the community supervision and corrections department;

16 (5) Permit the supervision officer to visit the
17 defendant at the defendant's home or elsewhere;

18 (6) Work faithfully at suitable employment as far as
19 possible;

20 (7) Remain within a specified place;

21 (8) Pay the defendant's fine, if one is assessed, and
22 all court costs whether a fine is assessed or not, in one or several
23 sums;

24 (9) Support the defendant's dependents;

25 (10) Participate, for a time specified by the judge,
26 in any community-based program, including a community-service work
27 program under Section 16 of this article;

1 (11) Reimburse the county in which the prosecution was
2 instituted for the costs of the legal services provided to the
3 defendant in accordance with Article 1.051(c) or (d), including
4 expenses and costs as described by Article 26.05, in the same manner
5 as the defendant may be ordered to pay the costs of the legal
6 services under Article 26.05(g), and subject to the court's
7 determination of the defendant's ability to pay under Subsection
8 (b) [compensation paid to appointed counsel for defending the
9 defendant in the case, if counsel was appointed, or if the defendant
10 was represented by a public defender's office, in an amount that
11 would have been paid to an appointed attorney had the county not had
12 a public defender's office];

13 (12) Remain under custodial supervision in a community
14 corrections facility, obey all rules and regulations of the
15 facility, and pay a percentage of the defendant's income to the
16 facility for room and board;

17 (13) Pay a percentage of the defendant's income to the
18 defendant's dependents for their support while under custodial
19 supervision in a community corrections facility;

20 (14) Submit to testing for alcohol or controlled
21 substances;

22 (15) Attend counseling sessions for substance abusers
23 or participate in substance abuse treatment services in a program
24 or facility approved or licensed by the Department of State Health
25 Services;

26 (16) With the consent of the victim of a misdemeanor
27 offense or of any offense under Title 7, Penal Code, participate in

1 victim-defendant mediation;

2 (17) Submit to electronic monitoring;

3 (18) Reimburse the compensation to victims of crime
4 fund for any amounts paid from that fund to or on behalf of a victim,
5 as defined by Article 56.32, of the defendant's offense or if no
6 reimbursement is required, make one payment to the compensation to
7 victims of crime fund in an amount not to exceed \$50 if the offense
8 is a misdemeanor or not to exceed \$100 if the offense is a felony;

9 (19) Reimburse a law enforcement agency for the
10 analysis, storage, or disposal of raw materials, controlled
11 substances, chemical precursors, drug paraphernalia, or other
12 materials seized in connection with the offense;

13 (20) Pay all or part of the reasonable and necessary
14 costs incurred by the victim for psychological counseling made
15 necessary by the offense or for counseling and education relating
16 to acquired immune deficiency syndrome or human immunodeficiency
17 virus made necessary by the offense;

18 (21) Make one payment in an amount not to exceed \$50 to
19 a crime stoppers organization as defined by Section 414.001,
20 Government Code, and as certified by the Texas Crime Stoppers
21 Council;

22 (22) Submit a DNA sample to the Department of Public
23 Safety under Subchapter G, Chapter 411, Government Code, for the
24 purpose of creating a DNA record of the defendant;

25 (23) In any manner required by the judge, provide
26 public notice of the offense for which the defendant was placed on
27 community supervision in the county in which the offense was

1 committed; and

2 (24) Reimburse the county in which the prosecution was
3 instituted for compensation paid to any interpreter in the case.

4 (b)(1) A judge may not order a defendant to make any
5 payments as a term or condition of community supervision, except
6 for:

7 (A) fines, court costs, and restitution to the
8 victim;

9 (B) reimbursement of a county as described by
10 Subsection (a)(11); ~~[r]~~ and

11 (C) other conditions related personally to the
12 rehabilitation of the defendant or otherwise expressly authorized
13 by law.

14 (2) A judge may not impose a condition of community
15 supervision requiring a defendant to reimburse a county for the
16 costs of legal services provided to the defendant in accordance
17 with Article 1.051(c) or (d) if the defendant has already satisfied
18 that obligation under Article 26.05(g).

19 (3) The court shall consider the ability of the
20 defendant to make payments before ~~[in]~~ ordering the defendant to
21 make payments under this article.

22 SECTION 3. Section 21(c), Article 42.12, Code of Criminal
23 Procedure, is amended to read as follows:

24 (c) The court may not revoke the community supervision of a
25 defendant if, at the community supervision revocation hearing, the
26 court finds that the only evidence supporting the alleged violation
27 of a condition of community supervision is the uncorroborated

1 results of a polygraph examination. In a community supervision
 2 revocation hearing at which it is alleged only that the defendant
 3 violated the conditions of community supervision by failing to pay
 4 ~~[compensation paid to appointed counsel,~~ community supervision
 5 fees, ~~[or]~~ court costs, and the costs of legal services provided in
 6 accordance with Article 1.051(c) or (d), including expenses and
 7 costs as described by Article 26.05, the state must prove by a
 8 preponderance of the evidence that the defendant was able to pay and
 9 did not pay as ordered by the judge. The court may order a
 10 community supervision and corrections department to obtain
 11 information pertaining to the factors listed under Article
 12 42.037(h) and include that information in the report required under
 13 Section 9(a) or a separate report, as the court directs.

14 SECTION 4. The change in law made by this Act applies only
 15 to a criminal hearing or proceeding that commences on or after the
 16 effective date of this Act, regardless of when the defendant
 17 committed the underlying offense for which the defendant became
 18 subject to the hearing or proceeding. A criminal hearing or
 19 proceeding that commences before the effective date of this Act is
 20 governed by the law in effect on the date the hearing or proceeding
 21 commenced, and the former law is continued in effect for that
 22 purpose.

23 SECTION 5. This Act takes effect September 1, 2015.