

1-1 By: Herrero, Collier (Senate Sponsor - West) H.B. No. 3633
1-2 (In the Senate - Received from the House April 22, 2015;
1-3 April 23, 2015, read first time and referred to Committee on
1-4 Criminal Justice; May 6, 2015, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 6, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Burton	X		
1-11	Creighton	X		
1-12	Hinojosa	X		
1-13	Menéndez	X		
1-14	Perry	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to reimbursement for the costs of legal services provided
1-18 to an indigent defendant in a criminal case.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Article 26.05(g), Code of Criminal Procedure, is
1-21 amended to read as follows:

1-22 (g) If the judge ~~[court]~~ determines that a defendant has
1-23 financial resources that enable the defendant ~~[him]~~ to offset in
1-24 part or in whole the costs of the legal services provided to the
1-25 defendant in accordance with Article 1.051(c) or (d), including any
1-26 expenses and costs, the judge ~~[court]~~ shall order the defendant to
1-27 pay during the pendency of the charges or, if convicted, as court
1-28 costs the amount that the judge ~~[it]~~ finds the defendant is able to
1-29 pay. The defendant may not be ordered to pay an amount that exceeds:

1-30 (1) the actual costs, including any expenses and
1-31 costs, paid by the county for the legal services provided by an
1-32 appointed attorney; or

1-33 (2) if the defendant was represented by a public
1-34 defender's office, the actual amount, including any expenses and
1-35 costs, that would have otherwise been paid to an appointed attorney
1-36 had the county not had a public defender's office.

1-37 SECTION 2. Sections 11(a) and (b), Article 42.12, Code of
1-38 Criminal Procedure, are amended to read as follows:

1-39 (a) The judge of the court having jurisdiction of the case
1-40 shall determine the conditions of community supervision and may, at
1-41 any time during the period of community supervision, alter or
1-42 modify the conditions. The judge may impose any reasonable
1-43 condition that is designed to protect or restore the community,
1-44 protect or restore the victim, or punish, rehabilitate, or reform
1-45 the defendant. Conditions of community supervision may include,
1-46 but shall not be limited to, the conditions that the defendant
1-47 shall:

1-48 (1) Commit no offense against the laws of this State or
1-49 of any other State or of the United States;

1-50 (2) Avoid injurious or vicious habits;

1-51 (3) Avoid persons or places of disreputable or harmful
1-52 character, including any person, other than a family member of the
1-53 defendant, who is an active member of a criminal street gang;

1-54 (4) Report to the supervision officer as directed by
1-55 the judge or supervision officer and obey all rules and regulations
1-56 of the community supervision and corrections department;

1-57 (5) Permit the supervision officer to visit the
1-58 defendant at the defendant's home or elsewhere;

1-59 (6) Work faithfully at suitable employment as far as
1-60 possible;

1-61 (7) Remain within a specified place;

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

(9) Support the defendant's dependents;

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

(11) If the judge determines that the defendant has financial resources that enable the defendant to offset in part or in whole the costs of the legal services provided to the defendant in accordance with Article 1.051(c) or (d), including any expenses and costs, reimburse [Reimburse] the county in which the prosecution was instituted for the costs of the legal services in an amount that the judge finds the defendant is able to pay, except that the defendant may not be ordered to pay an amount that exceeds:

(A) the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney; [compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed,] or

(B) if the defendant was represented by a public defender's office, the actual [in an] amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office;

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

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

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

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

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

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

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

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

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

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

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

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

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

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

(B) reimbursement of a county as described by Subsection (a)(11); ~~[7]~~ and

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

(2) A judge may not impose a condition of community supervision requiring a defendant to reimburse a county for the costs of legal services as described by Subsection (a)(11) if the defendant has already satisfied that obligation under Article 26.05(g).

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

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

(c) The court may not revoke the community supervision of a defendant if, at the community supervision revocation hearing, the court finds that the only evidence supporting the alleged violation of a condition of community supervision is the uncorroborated results of a polygraph examination. In a community supervision revocation hearing at which it is alleged only that the defendant violated the conditions of community supervision by failing to pay ~~[compensation paid to appointed counsel,]~~ community supervision fees~~[7]~~ or court costs or by failing to pay the costs of legal services as described by Section 11(a)(11), the state must prove by a preponderance of the evidence that the defendant was able to pay and did not pay as ordered by the judge. The court may order a community supervision and corrections department to obtain information pertaining to the factors listed under Article 42.037(h) and include that information in the report required under Section 9(a) or a separate report, as the court directs.

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

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

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