

BILL ANALYSIS

Senate Research Center
80R5973 SLO-F

S.B. 1557
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Legal defense for indigent state prisoners is the responsibility of the state, not the counties, as prisoners are in state custody. Many inmate are represented by the state public defender; however when certain circumstances arise, the judge must appoint additional representation. Most state prisons are located in poorer, rural counties which cannot afford to bear the burden of financing indigent inmate defense. Finding qualified representation for indigent defendants can be a difficult task, especially when payment from the state is difficult to obtain.

As proposed, S.B. 1557 streamlines the reimbursement of the counties by the state by removing bureaucratic steps and by trusting the district court's order on fees the same way as is done with court orders on fees for non-inmate indigent defense. In addition, this bill ensures that indigent inmate legal defense is subject to the same constitutionally required safeguards as other indigent defenses by ensuring that certain laws in the Code of Criminal Procedure apply to these claims.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 26.051, Code of Criminal Procedure, by amending Subsection (h) and adding Subsection (i), as follows:

(h) Provides that an inmate's legal defense is subject to certain articles of the Code of Criminal Procedure and requires the county to pay from its general fund the total costs of the aggregate amount allowed and awarded by the court for attorney compensation and expenses when the court appoints an attorney other than an attorney provided by the Texas Board of Criminal Justice (board). Deletes existing text relating to procedural requirements for the payment of certain attorney's fees.

(i) Requires the state to reimburse a county for attorney compensation and expenses awarded under Subsection (h). Requires a court seeking reimbursement for a county to certify to the comptroller of public accounts the amount of compensation and expenses for which the county is entitled to be reimbursed. Requires the comptroller, within a certain timeframe, to issue a warrant to the county in the amount certified by the court.

SECTION 2. Repealer: Articles 26.051(b) (relating to the application of this article) and (c) (relating to the payment of attorney's fees from the county's general fund), Code of Criminal Procedure.

Repealer: Article 26.055 (Contribution From State for Defense of Indigent Inmates), Code of Criminal Procedure.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.