

By: Turner

H.B. No. 3636

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appointment of an attorney to represent an indigent
3 defendant who is in the custody of a correctional facility of the
4 Texas Department of Criminal Justice or another related
5 correctional facility.

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

7 SECTION 1. Article 26.051(a)(2), Code of Criminal
8 Procedure, is amended to read as follows:

9 (2) "Correctional institutions [~~Institutional~~]
10 division" means the correctional institutions [~~institutional~~]
11 division of the Texas Department of Criminal Justice.

12 SECTION 2. Article 26.051, Code of Criminal Procedure, is
13 amended by amending Subsections (d) and (h) and adding Subsection
14 (i) to read as follows:

15 (d) A court shall:

16 (1) [~~may~~] notify the board if it determines that a
17 defendant before the court is indigent and is an inmate charged with
18 an offense committed while in the custody of the correctional
19 institutions [~~institutional~~] division or a correctional facility
20 authorized by Section 495.001, Government Code; and

21 (2) request that the board provide legal
22 representation for the inmate.

23 (h) When the court appoints an attorney other than an
24 attorney provided by the board:

1 (1) except as otherwise provided by this article, the
2 inmate's legal defense is subject to Articles 1.051, 15.17, 26.04,
3 26.05, and 26.052, as applicable; and

4 (2) the county in which a facility of the correctional
5 institutions division or a correctional facility authorized by
6 Section 495.001, Government Code, is located shall pay from its
7 general fund the total costs of the aggregate amount allowed and
8 awarded by the court for attorney compensation and expenses under
9 Article 26.05 or 26.052, as applicable [~~the county shall pay from~~
10 ~~its general fund the first \$250.00 of the aggregate sum allowed and~~
11 ~~awarded by the court for the attorney fees under Article 26.05 of~~
12 ~~this code. If the fees awarded for a court-appointed attorney in a~~
13 ~~case described by this subsection exceed \$250.00, the court shall~~
14 ~~certify the amount in excess of \$250.00 to the board. On request of~~
15 ~~the board, the comptroller shall issue a warrant to the~~
16 ~~court-appointed attorney in the amount certified to the board by~~
17 ~~the court].~~

18 (i) The state shall reimburse a county for attorney
19 compensation and expenses awarded under Subsection (h). A court
20 seeking reimbursement for a county shall certify to the comptroller
21 of public accounts the amount of compensation and expenses for
22 which the county is entitled to be reimbursed under this article.
23 Not later than the 60th day after the date the comptroller receives
24 from the court the request for reimbursement, the comptroller shall
25 issue a warrant to the county in the amount certified by the court.

26 SECTION 3. Articles 26.051(b) and (c), Code of Criminal
27 Procedure, and Article 26.055, Code of Criminal Procedure, are

1 repealed.

2 SECTION 4. The change in law made by this Act applies to an
3 appointment of an attorney under Article 26.051, Code of Criminal
4 Procedure, made on or after the effective date of this Act. An
5 appointment of an attorney made before the effective date of this
6 Act is governed by the law in effect when the appointment was made,
7 and the former law is continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2007.