

BILL ANALYSIS

Senate Research Center

H.B. 184
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A Court of Inquiry may be called when a district judge acting in the judge's capacity as a magistrate has probable cause to believe that an offense has been committed under state law. Historically, few courts of inquiry have convened under this broad authority. However, all costs incurred in conducting a Court of Inquiry are currently borne by the county in which the inquiry is undertaken. In the Michael Morton case, Williamson County incurred nearly half a million dollars in legal fees for the proceedings involving a judge's conduct when the judge served as a district attorney, a position that is a state employee. As a state employee at the time of the alleged misconduct, these costs should have been borne by the state.

H.B. 184 provides that, if the subject of the Court of Inquiry was an officer or employee of the state at the time of the alleged offense, the state is responsible for all costs incurred in conducting a Court of Inquiry and any attorney's fees awarded. If the subject of the inquiry was not an officer or employee of the state at the time of the alleged offense, the county would remain responsible for the costs and fees.

H.B. 184 amends current law relating to the allocation of costs and attorney's fees incurred by a Court of Inquiry.

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 52.04, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Adds a reference to an exception provided by Subsection (d) and makes a nonsubstantive change.

(d) Requires the state, if the subject of the Court of Inquiry was an officer or employee of the state at the time of the alleged offense, to be responsible for any attorney's fees awarded under Subsection (b) (requiring the officers and employees of that state governmental entity, if the Court of Inquiry pertains to the activities of a state governmental entity or its officers or employees, to be indemnified for attorney's fees incurred as a result of exercising the employees' or officers' right to counsel under this section under certain actions set forth).

SECTION 2. Amends Article 52.09, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires that all costs incurred in conducting a Court of Inquiry, except as provided by Subsection (a-1), including compensation of an attorney pro tem, be borne by:

(1) the county in which the Court of Inquiry is conducted, if the subject of the inquiry was not an officer or employee of the state at the time of the alleged offense; or

(2) the state, if the subject of the inquiry was an officer or employee of the state at the time of the alleged offense.

Makes nonsubstantive changes.

(a-1) Creates this subsection from existing text. Requires that the costs, if the attorney general of the State of Texas (attorney general), submitted a request in writing to the judge for the holding of the Court of Inquiry, be borne by the state and be taxed to the attorney general and paid in the same manner and from the same funds as other court costs.

Deletes existing text requiring that all costs incurred in conducting a Court of Inquiry, including compensation of an attorney pro tem, be borne by the county in which said Court of Inquiry is conducted; provided, however, that where the attorney general has submitted a request in writing to the judge for the holding of such Court of Inquiry, then and in that event the costs shall be borne by the State of Texas and shall be taxed to the attorney general and paid in the same manner and from the same funds as other court costs.

(b) Provides that the state or the county responsible for costs incurred under Subsection (a), as applicable, is not liable for attorney's fees claimed for assistance in a Court of Inquiry by any attorney other than an attorney pro tem appointed under Article 52.01(d) (requiring the judge, if the Court of Inquiry pertains to the activities of the district or county attorney or to the attorney's office, deputies, or employees, or if the attorney is otherwise disqualified in the proceeding, to appoint one attorney pro tem to assist in the proceeding). Makes nonsubstantive changes.

SECTION 3. Provides that the change in law made by this Act applies only to a Court of Inquiry commenced on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.