

By: Moody

H.B. No. 4915

A BILL TO BE ENTITLED

AN ACT

relating to legal representation of indigent persons in this state and to proceedings before a magistrate including the appointment of counsel for an indigent defendant.

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

SECTION 1. Article 11.074, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If at any time the state represents to the convicting court that an eligible indigent defendant under Article 1.051 has under a writ of habeas corpus a potentially meritorious claim for relief from a judgment described by Subsection (a) ~~[who was sentenced or had a sentence suspended is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the United States Supreme Court]~~, the court shall appoint an attorney to investigate the claim and represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if an application has not been filed, or to otherwise represent the indigent defendant in a proceeding based on the application for the writ.

(b-1) For purposes of Subsection (b), a potentially meritorious claim is any claim the court determines is likely to provide relief, including a claim that the defendant:

1 (1) is or may be actually innocent of the offense;

2 (2) is or may be guilty of only a lesser offense;

3 (3) was or may have been convicted or sentenced under a
4 law that has been found unconstitutional by the court of criminal
5 appeals or the United States Supreme Court; or

6 (4) was or may have been convicted or sentenced in
7 violation of the constitution of this state or the United States.

8 SECTION 2. Articles 15.17(a) and (f), Code of Criminal
9 Procedure, are amended to read as follows:

10 (a) (1) In each case enumerated in this Code, the person
11 making the arrest or the person having custody of the person
12 arrested shall without unnecessary delay, but not later than 48
13 hours after the person is arrested, take the person arrested or have
14 the person ~~[him]~~ taken before some magistrate of the county where
15 the person ~~[accused]~~ was arrested or, to provide more expeditiously
16 to the person arrested the warnings described by this article,
17 before a magistrate in any other county of this state. The arrested
18 person may be taken before the magistrate in person or the image and
19 sound of the arrested person may be presented to the magistrate by
20 means of a videoconference. For purposes of this subsection,
21 "videoconference" means a two-way electronic communication of
22 image and sound between the arrested person and the magistrate and
23 includes secure Internet videoconferencing.

24 (2) The magistrate shall inform in clear language the
25 person arrested, either in person or through a videoconference, of:

26 (A) the accusation against the person ~~[him]~~ and
27 of any affidavit filed with the accusation;

1 (B) the person's ~~[therewith, of his]~~ right to
2 retain counsel;i

3 (C) the person's ~~[, of his]~~ right to remain
4 silent and to not make a statement;

5 (D) the fact that any statement the person makes
6 may be used against the person;

7 (E) the person's ~~[, of his]~~ right to have an
8 attorney present during any interview with peace officers or
9 attorneys representing the state;i

10 (F) the person's ~~[, of his]~~ right to terminate
11 the interview at any time;i

12 (G) the person's ~~[, and of his]~~ right to have an
13 examining trial;i

14 (H) ~~[. The magistrate shall also inform the~~
15 ~~person arrested of]~~ the person's right to request the appointment
16 of counsel if the person cannot afford counsel;i and

17 (I) ~~[. The magistrate shall inform the person~~
18 ~~arrested of]~~ the procedures for requesting appointment of counsel.

19 (3) If applicable, the magistrate shall inform the
20 person that the person may file the affidavit described by Article
21 [17.028\(f\)](#).

22 (4) If the person does not speak and understand the
23 English language or is deaf, the magistrate shall inform the person
24 in a manner consistent with Articles [38.30](#) and [38.31](#), as
25 appropriate.

26 (5) If the proceeding is conducted through a
27 videoconference, the magistrate shall ensure that the arrested

1 person is able to connect to and understand the image and sound of
2 the videoconference.

3 (6) If the magistrate has reasonable cause to believe
4 that the arrested person has a mental illness or is a person with an
5 intellectual disability, the magistrate shall follow the
6 procedures under Article 16.22.

7 (7) If the magistrate is unable to ensure that the
8 arrested person is able to understand and participate in the
9 proceeding, the magistrate shall:

10 (A) if the magistrate has appointing authority,
11 appoint counsel for the person; or

12 (B) if the magistrate does not have appointing
13 authority, notify the appointing authority of the person's
14 inability to understand and participate in the proceeding.

15 (8) The magistrate shall ensure that reasonable
16 assistance in completing the necessary forms for requesting
17 appointment of counsel is provided to the arrested person at the
18 same time the person is informed of the person's rights under this
19 subsection.

20 (9) If the ~~person~~ arrested person is indigent and
21 requests appointment of counsel and if the magistrate is authorized
22 under Article 26.04 to appoint counsel for indigent defendants in
23 the county, the magistrate shall appoint counsel in accordance with
24 Article 1.051. If the magistrate is not authorized to appoint
25 counsel, the magistrate shall without unnecessary delay, but not
26 later than 24 hours after the ~~person~~ arrested person requests
27 appointment of counsel, transmit, or cause to be transmitted to the

1 court or to the courts' designee authorized under Article 26.04 to
 2 appoint counsel in the county, the necessary forms for requesting
 3 and ruling on the appointment of counsel. ~~[The magistrate shall~~
 4 ~~also inform the person arrested that he is not required to make a~~
 5 ~~statement and that any statement made by him may be used against~~
 6 ~~him.]~~

7 (10) The magistrate shall allow the ~~[person]~~ arrested
 8 person reasonable time and opportunity to consult counsel and
 9 shall, after determining whether the person is currently on bail
 10 for a separate criminal offense and whether the bail decision is
 11 subject to Article 17.027, admit the person ~~[arrested]~~ to bail if
 12 allowed by law.

13 (11) A record of the communication between the
 14 arrested person and the magistrate shall be made. ~~[The record shall~~
 15 ~~be preserved until the earlier of the following dates:~~

16 ~~[(1) the date on which the pretrial hearing ends; or~~
 17 ~~[(2) the 91st day after the date on which the record is~~
 18 ~~made if the person is charged with a misdemeanor or the 120th day~~
 19 ~~after the date on which the record is made if the person is charged~~
 20 ~~with a felony. For purposes of this subsection, "videoconference"~~
 21 ~~means a two-way electronic communication of image and sound between~~
 22 ~~the arrested person and the magistrate and includes secure Internet~~
 23 ~~videoconferencing.]~~

24 (f) A record required under Subsection (a) or (e) may
 25 consist of written forms, electronic recordings, or other
 26 documentation as authorized by procedures adopted in the county
 27 under Article 26.04(a). The record must be retained for at least

1 two years after final judgment is entered in the case or the
2 proceedings are otherwise terminated. The counsel for the defendant
3 may obtain a copy of the record on payment of a reasonable amount to
4 cover the costs of reproduction or, if the defendant is indigent,
5 the court shall provide a copy to the defendant without charging a
6 cost for the copy.

7 SECTION 3. Article 26.04, Code of Criminal Procedure, is
8 amended by adding Subsection (i-1) to read as follows:

9 (i-1) Notwithstanding Subsection (j)(2) or any other law,
10 and if funds are appropriated by a county for this purpose, an
11 attorney may be appointed under this article to represent an
12 indigent person for the sole purpose of providing counsel in
13 relation to that person's appearance before a magistrate as
14 required by Article 14.06(a), 15.17(a), or 15.18(a). The attorney
15 may represent the person in subsequent proceedings of that case,
16 only if appointed for that purpose under the other provisions of
17 this article.

18 SECTION 4. Article 26.044, Code of Criminal Procedure, is
19 amended by adding Subsection (i-1) and amending Subsection (l) to
20 read as follows:

21 (i-1) Notwithstanding Subsection (i)(1), an attorney
22 engaged in the private practice of criminal law may be employed by a
23 public defender's office on a part-time basis for the sole purpose
24 of providing counsel in relation to an indigent person's appearance
25 before a magistrate as required by Article 14.06(a), 15.17(a), or
26 15.18(a).

27 (1) A public defender's office may investigate the

1 financial condition of any person the public defender's office is
2 appointed to represent. ~~[The public defender's office shall report~~
3 ~~the results of the investigation to the appointing judge. The judge~~
4 ~~may hold a hearing to determine if the person is indigent and~~
5 ~~entitled to representation under this article.]~~

6 SECTION 5. Article 26.047(a)(2), Code of Criminal
7 Procedure, is amended to read as follows:

8 (2) "Managed assigned counsel program" or "program"
9 means a program to perform delegated judicial functions using
10 public funds that is operated ~~[with public funds]:~~

11 (A) by a governmental entity, nonprofit
12 corporation, or bar association under a written agreement with a
13 governmental entity, other than an individual judge or court; ~~[and]~~

14 (B) for the purpose of appointing counsel under
15 Article 26.04 of this code or Section 51.10, Family Code;

16 (C) for the purpose of appointing or providing an
17 investigator, expert, or other support services for appointed
18 counsel and their clients;

19 (D) for the purpose of approving a payment to an
20 attorney, investigator, or expert, and for other reasonable and
21 necessary expenses under Article 26.05 or 26.052, including a
22 payment for legal representation in a related matter for the
23 purpose of ensuring the right to counsel in the primary matter; and

24 (E) for the purpose of overseeing and improving
25 the quality of representation provided to clients by attorneys
26 appointed under this article.

27 SECTION 6. Article 26.047, Code of Criminal Procedure, is

1 amended by amending Subsections (c), (f), and (g) and adding
2 Subsection (j) to read as follows:

3 (c) The commissioners court or commissioners courts shall
4 require a written plan of operation from an entity operating a
5 program under this article. The plan of operation must include:

6 (1) a budget for the program, including salaries;

7 (2) a description of each personnel position,
8 including the program's director;

9 (3) the maximum allowable caseload for each attorney
10 appointed by the program;

11 (4) provisions for training personnel of the program
12 and attorneys appointed under the program;

13 (5) a description of anticipated overhead costs for
14 the program;

15 (6) a policy regarding licensed investigators and
16 expert witnesses used by attorneys appointed under the program;

17 (7) a policy to ensure that appointments are
18 reasonably and impartially allocated among qualified attorneys;
19 ~~[and]~~

20 (8) a policy to ensure that an attorney appointed
21 under the program does not accept appointment in a case that
22 involves a conflict of interest for the attorney that has not been
23 waived by all affected clients;

24 (9) a policy describing the circumstances under which
25 the program may allow appointed counsel to provide representation
26 in a related matter for the purpose of ensuring the right to counsel
27 in the primary matter;

1 (10) a policy describing the circumstances under
2 which:

3 (A) an attorney may withdraw from a case; and

4 (B) good cause is established to remove an
5 attorney from a case; and

6 (11) procedures the program will use to maintain the
7 confidentiality of data related to clients whose information is
8 held in the juvenile justice system, including which staff may
9 access that data.

10 (f) The program's public appointment list from which an
11 attorney is appointed must contain the names of qualified
12 attorneys, each of whom:

13 (1) applies to be included on the list;

14 (2) meets any applicable requirements specified by the
15 procedure for appointing counsel adopted under Article 26.04(a) and
16 any other requirements specified by the Texas Indigent Defense
17 Commission; and

18 (3) is approved by the program director or review
19 committee, as applicable.

20 (g) A court may replace an attorney appointed by the program
21 for the same reasons and in the same manner described by Article
22 26.04(k). The notice and reason for the replacement of counsel must
23 be documented in the same manner as the original appointment.

24 (j) A program may receive information necessary to perform
25 the program's functions under this article, including materials
26 that are subject to attorney-client privilege, subject to attorney
27 work-product privilege, or otherwise protected by constitutional

1 or statutory rights of a client represented by an attorney
2 appointed under this article. Information and materials described
3 by this subsection and information and materials related to a
4 purpose described by Subsection (a)(2)(C) are confidential and not
5 subject to disclosure, and the program, the attorneys appointed
6 under this article, and other individuals, as applicable, shall
7 maintain the confidentiality of any information or materials
8 described by this subsection.

9 SECTION 7. Article 26.05, Code of Criminal Procedure, is
10 amended by amending Subsections (a), (c), and (d) and adding
11 Subsection (d-1) to read as follows:

12 (a) A counsel, other than an attorney with a public
13 defender's office or an attorney employed by the office of capital
14 and forensic writs, appointed to represent a defendant in a
15 criminal proceeding, including a habeas corpus hearing, shall be
16 paid a reasonable attorney's fee for performing the following
17 services, based on the time and labor required, the complexity of
18 the case, and the experience and ability of the appointed counsel:

19 (1) time spent in court making an appearance on behalf
20 of the defendant as evidenced by a docket entry, time spent in
21 trial, and time spent in a proceeding in which sworn oral testimony
22 is elicited;

23 (2) reasonable and necessary time spent out of court
24 on the case, including time spent traveling to perform legal
25 services outside the county where the case is pending, supported by
26 any documentation that the court requires;

27 (3) preparation of an appellate brief and preparation

1 and presentation of oral argument to a court of appeals or the Court
2 of Criminal Appeals; and

3 (4) preparation of a motion for rehearing.

4 (c) Each fee schedule adopted shall state reasonable fixed
5 rates or minimum and maximum hourly rates, taking into
6 consideration reasonable and necessary overhead costs and the
7 availability of qualified attorneys willing to accept the stated
8 rates, and shall provide a form for the appointed counsel to itemize
9 the types of services performed. No payment shall be made under
10 this article until the form for itemizing the services performed is
11 submitted to the judge presiding over the proceedings or, if the
12 county operates a managed assigned counsel program under Article
13 [26.047](#), to the director of the program or the director's designee,
14 and until the judge or the director or director's designee, as
15 applicable, approves the payment. If the judge or the director or
16 director's designee disapproves the requested amount of payment,
17 the judge or the director or director's designee shall make written
18 findings stating the amount of payment that the judge or the
19 director or director's designee approves and each reason for
20 approving an amount different from the requested amount. An
21 attorney whose request for payment is disapproved or is not
22 otherwise acted on by the 60th day after the date the request for
23 payment is submitted may appeal the disapproval or failure to act by
24 filing a motion with the presiding judge of the administrative
25 judicial region. On the filing of a motion, the presiding judge of
26 the administrative judicial region shall review the disapproval of
27 payment or failure to act and determine the appropriate amount of

1 payment. In reviewing the disapproval or failure to act, the
 2 presiding judge of the administrative judicial region may conduct a
 3 hearing. Not later than the 45th day after the date an application
 4 for payment of a fee is submitted under this article, the
 5 commissioners court shall pay to the appointed counsel the amount
 6 that is approved by the presiding judge of the administrative
 7 judicial region and that is in accordance with the fee schedule for
 8 that county.

9 (d) A counsel in a noncapital case, other than an attorney
 10 with a public defender's office, appointed to represent a defendant
 11 under this code shall be reimbursed for reasonable and necessary
 12 expenses, including expenses for:

- 13 (1) investigation;
- 14 (2) ~~[and for]~~ mental health and other experts; and
- 15 (3) if the defendant is confined in a correctional
 16 facility located more than 50 miles from the court in which the
 17 defendant's proceeding is pending:

18 (A) travel to the defendant's location for a
 19 confidential communication and food and lodging related to that
 20 travel; and

21 (B) any costs associated with remotely entering
 22 into a confidential communication with the defendant.

23 (d-1) Expenses under Subsection (d) incurred with prior
 24 court approval shall be reimbursed in the same manner provided for
 25 capital cases by Articles 26.052(f) and (g), and expenses under
 26 Subsection (d) incurred without prior court approval shall be
 27 reimbursed in the manner provided for capital cases by Article

1 26.052(h).

2 SECTION 8. Article 26.051, Code of Criminal Procedure, is
3 amended by amending Subsections (g), (h), and (i) and adding
4 Subsection (h-1) to read as follows:

5 (g) The court shall appoint the public defender's office or
6 an attorney other than an attorney provided by the board if the
7 court determines for any of the following reasons that a conflict of
8 interest could arise from the use of an attorney provided by the
9 board under Subsection (e) [~~of this article~~]:

10 (1) the case involves more than one inmate and the
11 representation of more than one inmate could impair the attorney's
12 effectiveness;

13 (2) the case is appealed and the court is satisfied
14 that conflict of interest would prevent the presentation of a good
15 faith allegation of ineffective assistance of counsel by a trial
16 attorney provided by the board; or

17 (3) any conflict of interest exists under the Texas
18 Disciplinary Rules of Professional Conduct of the State Bar of
19 Texas that precludes representation by an attorney appointed by the
20 board.

21 (h) When the court appoints the public defender's office or
22 an attorney other than an attorney provided by the board:

23 (1) except as otherwise provided by this article, the
24 inmate's legal defense is subject to Articles 1.051, 26.04, 26.044,
25 26.05, and 26.052, as applicable; and

26 (2) the county in which a facility of the correctional
27 institutions division or a correctional facility authorized by

Section 495.001, Government Code, is located shall pay from its general fund the total costs of the aggregate amount allowed and awarded by the court for attorney compensation and expenses under Article 26.05 or 26.052, as applicable.

(h-1) If the court appoints a public defender's office under Subsection (g), the public defender's office shall certify to the court the amount of expenses incurred in the representation. The court shall submit the certified amount to the comptroller for reimbursement of the county by the state as described by Subsection (i).

(i) The state shall reimburse a county for attorney compensation and expenses awarded under Subsection (h) and for any expenses of a public defender's office that are certified under Subsection (h-1). A court seeking reimbursement for a county shall certify to the comptroller of public accounts the amount of compensation and expenses for which the county is entitled to be reimbursed under this article. Not later than the 60th day after the date the comptroller receives from the court the request for reimbursement, the comptroller shall issue a warrant to the county in the certified amount [~~certified by the court~~].

SECTION 9. Chapter 61, Education Code, is amended by adding Subchapter Y-1 to read as follows:

SUBCHAPTER Y-1. REPAYMENT OF CERTAIN EDUCATION LOANS: PUBLIC
DEFENSE ATTORNEY

Sec. 61.9611. APPLICABILITY. This subchapter applies only to a county:

(1) with a population of 300,000 or less; or

1 (2) designated by the Texas Indigent Defense
2 Commission under Section 61.9620.

3 Sec. 61.9612. REPAYMENT ASSISTANCE AUTHORIZED. (a) The
4 board shall provide, using funds appropriated for that purpose and
5 in accordance with this subchapter and board rules, assistance in
6 the repayment of student loans for attorneys who apply and qualify
7 for the assistance.

8 (b) The provision of financial assistance in the repayment
9 of education loans under this subchapter promotes a public purpose.

10 Sec. 61.9613. ELIGIBILITY. To be eligible to receive
11 repayment assistance, an attorney licensed in this state must:

12 (1) apply to the board;

13 (2) at the time of application, be:

14 (A) currently employed as an attorney by a public
15 defender's office, office of child representation, office of parent
16 representation, or attorney for a managed assigned counsel program
17 that serves a county to which this subchapter applies; or

18 (B) an attorney providing appointed
19 representation to indigent defendants, juvenile respondents, or
20 indigent parents or children in proceedings brought by the
21 Department of Family and Protective Services:

22 (i) in one or more counties to which this
23 subchapter applies; and

24 (ii) where representation is, on average,
25 at least 30 hours per week of the attorney's practice time in the
26 most recent state fiscal year; and

27 (3) have completed one, two, three, or four

1 consecutive years of practice as described by Subdivision (2).

2 Sec. 61.9614. ELIGIBLE LOANS. (a) The board may provide
3 repayment assistance for the repayment of any loan received by the
4 attorney through any lender for education at an institution of
5 higher education, including a loan for undergraduate education.

6 (b) The board may not provide repayment assistance for an
7 education loan that is in default at the time of the attorney's
8 application.

9 (c) Each state fiscal biennium, the board shall attempt to
10 allocate all money appropriated to the board for the purpose of
11 providing repayment assistance under this subchapter.

12 Sec. 61.9615. REPAYMENT. The board shall deliver any
13 repayment made under this subchapter in a lump sum payable:

14 (1) to both the attorney and the lender or other holder
15 of the affected loan; or

16 (2) directly to the lender or other holder of the loan
17 on the attorney's behalf.

18 Sec. 61.9616. ADVISORY COMMITTEES. The board may appoint
19 advisory committees from outside the board's membership to assist
20 the board in performing its duties under this subchapter.

21 Sec. 61.9617. ACCEPTANCE OF FUNDS. The board may accept
22 gifts, grants, and donations for the purposes of this subchapter.

23 Sec. 61.9618. RULES. (a) The board shall adopt rules
24 necessary for the administration of this subchapter, including a
25 rule that sets the maximum amount of repayment assistance that an
26 attorney may receive in one year.

27 (b) The board shall distribute a copy of the rules adopted

under this section and pertinent information in this subchapter to:

(1) each school of law authorized by the board to award a degree that satisfies the law study requirements for licensure as an attorney in this state; and

(2) the Texas Indigent Defense Commission.

Sec. 61.9619. AMOUNT OF REPAYMENT ASSISTANCE. (a) An attorney may receive repayment assistance under this subchapter in the amount determined by board rule, not to exceed the following amounts for each year for which the attorney establishes eligibility for the assistance:

(1) for the first year, \$30,000;

(2) for the second year, \$40,000;

(3) for the third year, \$50,000; and

(4) for the fourth year, \$60,000.

(b) The total amount of repayment assistance distributed by the board may not exceed the total amount of money appropriated to the board and received by the board from gifts, grants, and donations for the purposes of this subchapter.

(c) The total amount of repayment assistance made under this subchapter to an individual attorney may not exceed \$180,000.

Sec. 61.9620. DESIGNATION OF HIGH NEED COUNTY. The Texas Indigent Defense Commission may designate a county in which the need for public defenders exceeds the statewide average as a county to which this subchapter applies.

SECTION 10. Section 79.037(a), Government Code, is amended to read as follows:

(a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their systems for providing indigent defense services, including indigent defense support services;

(B) assist counties in improving their systems for providing family protection services; and

(C) promote compliance by counties with the requirements of state law relating to indigent defense and family protection services;

(2) to assist a county in providing or improving the provision of indigent defense services and family protection services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

(A) the county;

(B) a law school's legal clinic or program that provides indigent defense services in the county;

(C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county;

(D) an entity described by Section 791.013 that provides to a county administrative services under an interlocal contract entered into for the purpose of providing or improving the provision of indigent defense services or family protection services in the county;

(E) a nonprofit corporation that provides indigent defense services, indigent defense support services, or

1 family protection services in the county; and

2 (F) an office of child representation or office
3 of parent representation created under Subchapter G, Chapter 107,
4 Family Code; ~~and~~

5 (3) monitor each entity that receives a grant under
6 Subdivision (2) and enforce compliance with the conditions of the
7 grant, including enforcement by:

8 (A) withdrawing grant funds; or

9 (B) requiring reimbursement of grant funds by the
10 entity; and

11 (4) provide grants and awards through the Texas Public
12 Defense Internship and Fellowship Program described by Section
13 79.038.

14 SECTION 11. Subchapter C, Chapter 79, Government Code, is
15 amended by adding Section 79.038 to read as follows:

16 Sec. 79.038. TEXAS PUBLIC DEFENSE INTERNSHIP AND FELLOWSHIP
17 PROGRAM. (a) The commission shall establish the Texas Public
18 Defense Internship and Fellowship Program to provide grants to
19 entities described by Section 79.037 to provide, with the
20 assistance of students enrolled at and recent graduates of public
21 and private institutions of higher education in this state, legal
22 representation to indigent persons under:

23 (1) Article 26.04, Code of Criminal Procedure;

24 (2) Title 3, Family Code; and

25 (3) Title 5, Family Code.

26 (b) The program may make direct awards to students and
27 recent graduates described by Subsection (a) for purposes of

1 providing legal representation as described by that subsection.

2 SECTION 12. Section 411.082, Government Code, is amended by
3 adding Subdivision (4-a) to read as follows:

4 (4-a) "Managed assigned counsel program" has the
5 meaning assigned by Article 26.047, Code of Criminal Procedure.

6 SECTION 13. Section 411.088(a-1), Government Code, is
7 amended to read as follows:

8 (a-1) The department may not charge a fee under Subsection
9 (a) for providing criminal history record information to:

- 10 (1) a criminal justice agency;
11 (2) the office of capital and forensic writs; ~~[or]~~
12 (3) a public defender's office; or
13 (4) a managed assigned counsel program.

14 SECTION 14. Section 411.1272, Government Code, is amended
15 to read as follows:

16 Sec. 411.1272. ACCESS TO CRIMINAL HISTORY RECORD
17 INFORMATION: OFFICE OF CAPITAL AND FORENSIC WRITS, ~~[AND]~~ PUBLIC
18 DEFENDER'S OFFICES, AND MANAGED ASSIGNED COUNSEL PROGRAMS. The
19 office of capital and forensic writs, ~~[and]~~ a public defender's
20 office, and a managed assigned counsel program are entitled to
21 obtain from the department criminal history record information
22 maintained by the department that relates to a criminal case in
23 which an attorney compensated by the office of capital and forensic
24 writs or by the public defender's office has been appointed by the
25 court or in which an attorney has been appointed by the managed
26 assigned counsel program, as applicable ~~[has been appointed].~~

27 SECTION 15. Section 25.025(a), Tax Code, as amended by

1 Chapters 76 (S.B. 617), 152 (S.B. 870), 430 (H.B. 1911), 765 (H.B.
2 4504), and 937 (S.B. 1525), Acts of the 88th Legislature, Regular
3 Session, 2023, is reenacted and amended to read as follows:

4 (a) This section applies only to:

5 (1) a current or former peace officer as defined by
6 Article 2A.001, Code of Criminal Procedure, and the spouse or
7 surviving spouse of the peace officer;

8 (2) the adult child of a current peace officer as
9 defined by Article 2A.001, Code of Criminal Procedure;

10 (3) a current or honorably retired county jailer as
11 defined by Section 1701.001, Occupations Code;

12 (4) an employee of the Texas Department of Criminal
13 Justice;

14 (5) a commissioned security officer as defined by
15 Section 1702.002, Occupations Code;

16 (6) an individual who shows that the individual, the
17 individual's child, or another person in the individual's household
18 is a victim of family violence as defined by Section 71.004, Family
19 Code, by providing:

20 (A) a copy of a protective order issued under
21 Chapter 85, Family Code, or a magistrate's order for emergency
22 protection issued under Article 17.292, Code of Criminal Procedure;
23 or

24 (B) other independent documentary evidence
25 necessary to show that the individual, the individual's child, or
26 another person in the individual's household is a victim of family
27 violence;

1 (7) an individual who shows that the individual, the
2 individual's child, or another person in the individual's household
3 is a victim of sexual assault or abuse, stalking, or trafficking of
4 persons by providing:

5 (A) a copy of a protective order issued under
6 Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a
7 magistrate's order for emergency protection issued under Article
8 17.292, Code of Criminal Procedure; or

9 (B) other independent documentary evidence
10 necessary to show that the individual, the individual's child, or
11 another person in the individual's household is a victim of sexual
12 assault or abuse, stalking, or trafficking of persons;

13 (8) a participant in the address confidentiality
14 program administered by the attorney general under Subchapter B,
15 Chapter 58, Code of Criminal Procedure, who provides proof of
16 certification under Article 58.059, Code of Criminal Procedure;

17 (9) a federal judge, a federal bankruptcy judge, a
18 marshal of the United States Marshals Service, a state judge, or a
19 family member of a federal judge, a federal bankruptcy judge, a
20 marshal of the United States Marshals Service, or a state judge;

21 (10) a current or former district attorney, criminal
22 district attorney, or county or municipal attorney whose
23 jurisdiction includes any criminal law or child protective services
24 matters;

25 (11) a current or former employee of a district
26 attorney, criminal district attorney, or county or municipal
27 attorney whose jurisdiction includes any criminal law or child

1 protective services matters;

2 (12) an officer or employee of a community supervision
3 and corrections department established under Chapter 76,
4 Government Code, who performs a duty described by Section 76.004(b)
5 of that code;

6 (13) a criminal investigator of the United States as
7 described by Article 2A.002(a), Code of Criminal Procedure;

8 (14) a current or honorably retired police officer or
9 inspector of the United States Federal Protective Service;

10 (15) a current or former United States attorney,
11 assistant United States attorney, federal public defender, deputy
12 federal public defender, or assistant federal public defender and
13 the spouse and child of the attorney or public defender;

14 (16) a current or former employee of the office of the
15 attorney general who is or was assigned to a division of that office
16 the duties of which involve law enforcement or are performed under
17 Chapter 231, Family Code;

18 (17) a medical examiner or person who performs
19 forensic analysis or testing who is employed by this state or one or
20 more political subdivisions of this state;

21 (18) a current or former member of the United States
22 armed forces who has served in an area that the president of the
23 United States by executive order designates for purposes of 26
24 U.S.C. Section 112 as an area in which armed forces of the United
25 States are or have engaged in combat;

26 (19) a current or former employee of the Texas
27 Juvenile Justice Department or of the predecessors in function of

1 the department;

2 (20) a current or former juvenile probation or
3 supervision officer certified by the Texas Juvenile Justice
4 Department, or the predecessors in function of the department,
5 under Title 12, Human Resources Code;

6 (21) a current or former employee of a juvenile
7 justice program or facility, as those terms are defined by Section
8 [261.405](#), Family Code;

9 (22) a current or former employee of the Texas Civil
10 Commitment Office or the predecessor in function of the office or a
11 division of the office;

12 (23) a current or former employee of a federal judge or
13 state judge;

14 (24) a current or former child protective services
15 caseworker, adult protective services caseworker, or investigator
16 for the Department of Family and Protective Services or a current or
17 former employee of a department contractor performing child
18 protective services caseworker, adult protective services
19 caseworker, or investigator functions for the contractor on behalf
20 of the department;

21 (25) an elected public officer;

22 (26) a firefighter or volunteer firefighter or
23 emergency medical services personnel as defined by Section [773.003](#),
24 Health and Safety Code;

25 (27) a customs and border protection officer or border
26 patrol agent of United States Customs and Border Protection or the
27 spouse, surviving spouse, or adult child of a customs and border

1 protection officer or border patrol agent;

2 (28) [(27) a current or former attorney for the
3 Department of Family and Protective Services

4 [(27)] a current or former employee or contract staff
5 member of a university health care provider at a corrections
6 facility operated by the Texas Department of Criminal Justice or
7 the Texas Juvenile Justice Department; ~~and~~

8 (29) [(28)] a current or former attorney for the
9 Department of Family and Protective Services;

10 (30) an employee of a public defender's office, as
11 defined by Article 26.044, Code of Criminal Procedure; and

12 (31) an employee of a managed assigned counsel
13 program, as defined by Article 26.047, Code of Criminal Procedure.

14 SECTION 16. Subchapter C, Chapter 183, Tax Code, is amended
15 by adding Section 183.055 to read as follows:

16 Sec. 183.055. ALLOCATION OF CERTAIN REVENUE TO FAIR DEFENSE
17 FUND. The comptroller shall deposit one percent of the taxes
18 received under Subchapters B and B-1 to the credit of the fair
19 defense account established under Section 79.031, Government Code.
20 Money deposited to the account under this section may be used only
21 for the purposes described by Section 79.031, Government Code.

22 SECTION 17. Section 730.007(c), Transportation Code, is
23 amended to read as follows:

24 (c) This section does not:

25 (1) prohibit the disclosure of a person's photographic
26 image to:

27 (A) a law enforcement agency, the Texas

1 Department of Motor Vehicles, a county tax assessor-collector, or a
2 criminal justice agency for an official purpose;

3 (B) an agency of this state investigating an
4 alleged violation of a state or federal law relating to the
5 obtaining, selling, or purchasing of a benefit authorized by
6 Chapter 31 or 33, Human Resources Code; ~~or~~

7 (C) an agency of this state investigating an
8 alleged violation of a state or federal law under authority
9 provided by Title 4, Labor Code; or

10 (D) a private investigator licensed under
11 Chapter 1702, Occupations Code, who is employed by a public
12 defender's office for an official purpose; or

13 (2) prevent a court from compelling by subpoena the
14 production of a person's photographic image.

15 SECTION 18. To the extent of any conflict, this Act prevails
16 over another Act of the 89th Legislature, Regular Session, 2025,
17 relating to nonsubstantive additions to and corrections in enacted
18 codes.

19 SECTION 19. Article 11.074, Code of Criminal Procedure, as
20 amended by this Act, applies regardless of whether the offense for
21 which the applicant is in custody was committed before, on, or after
22 the effective date of this Act.

23 SECTION 20. Article 15.17, Code of Criminal Procedure, as
24 amended by this Act, and Article 26.04(i-1), Code of Criminal
25 Procedure, as added by this Act, apply only to a person who is
26 arrested on or after the effective date of this Act. A person
27 arrested before the effective date of this Act is governed by the

1 law in effect on the date the person was arrested, and the former
2 law is continued in effect for that purpose.

3 SECTION 21. Article 26.05, Code of Criminal Procedure, as
4 amended by this Act, applies only to expenses incurred on or after
5 the effective date of this Act.

6 SECTION 22. The Texas Higher Education Coordinating Board
7 shall adopt the rules for the repayment assistance program under
8 Subchapter Y-1, Chapter 61, Education Code, as added by this Act,
9 not later than December 1, 2025.

10 SECTION 23. This Act takes effect September 1, 2025.