

BILL ANALYSIS

H.B. 3633
By: Herrero
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that a judge is currently required to order a convicted defendant who was represented by appointed counsel to pay costs of attorney's fees if the judge finds that the defendant is able to pay the ordered amount. However, these parties contend that a problem exists when a defendant is placed on community supervision and the judge is not required to make that finding before ordering reimbursement of attorney's fees as a condition of the community supervision. The parties also point to instances where a defendant could end up paying more than the cost of the attorney's fees actually paid to the appointed counsel if a defendant is ordered to pay attorney's fees while charges are pending. H.B. 3633 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3633 amends the Code of Criminal Procedure to replace the requirement that a court order a defendant to pay part or all of the costs of the legal services provided to the defendant by appointed counsel on determining that the defendant has financial resources to offset the costs with the requirement that a judge order that payment on that determination by the judge. The bill prohibits the defendant from being ordered to pay an amount that exceeds the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney or, if the defendant was represented by a public defender's office, the actual 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. The bill makes that prohibition applicable to a general condition of community supervision a judge may order requiring a defendant to reimburse a county for legal services and conditions the judge's ordering of that reimbursement as a community supervision condition on the judge's determination that the defendant has financial resources to offset part or all of the costs of the provided legal services, including any expenses and costs. The bill prohibits a judge from imposing a condition of community supervision requiring a defendant to reimburse a county for the costs of legal services if the defendant has already satisfied the obligation of paying such costs during the pendency of the charges or as conviction costs, as applicable.

EFFECTIVE DATE

September 1, 2015.

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