

BILL ANALYSIS

Senate Research Center
78R9436 KEL-F

C.S.S.B. 600
By: West
Criminal Justice
4/2/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, Texas law has two different procedures for paying expenses in habeas and death penalty cases. In cases where the conviction occurred before September 1, 1999, the Court of Criminal Appeals is responsible for the appointment and reimbursement of expenses. In cases where the conviction occurred after September 1, 1999, the convicting court is responsible for the appointment and reimbursement of expenses. C.S.S.B. 600 allows cases involving convictions prior to September 1, 1999, to be reimbursed under the same procedures as are in place for post-September 1, 1999, convictions.

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 Section 2(f), Article 11.071, Code of Criminal Procedure, to require the convicting court to reasonably compensate an attorney appointed under this section, as provided by Section 2A, regardless of whether the attorney is appointed by the convicting court or was appointed by the court of criminal appeals under prior law. Makes conforming changes.

SECTION 2. Amends Section 2A, Article 11.071, Code of Criminal Procedure, by adding Subsection (d), to require the comptroller of public accounts to reimburse a county for the compensation and payment of expenses of an attorney appointed by the court of criminal appeals under prior law. Requires a convicting court seeking reimbursement for a county as permitted by this subsection to certify the amount the county is entitled to receive under this subsection for an application filed under this article, not to exceed a total amount of \$25,000.

SECTION 3. Amends Section 3(d), Article 11.071, Code of Criminal Procedure, to authorize the counsel to incur expenses for habeas corpus investigation, including expenses for experts, without prior approval by the convicting court or the court of criminal appeals. Requires the convicting court to order reimbursement of counsel for expenses, on presentation of a claim for reimbursement, which may be presented ex-parte, if the expenses are reasonably necessary and reasonably incurred. Requires the court to briefly state the reasons for the denial in a written order provided to the applicant, if the convicting court denies in whole or in part the request for expenses. Authorizes the applicant to request reconsideration of the denial for reimbursement by the convicting court.

SECTION 4. Effective date: September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

Differs from original in the relating clause by providing that this Act relates to the reimbursement of compensation and expenses of certain appointed counsel filing an application for a writ of habeas corpus in a capital case, rather than relating to compensation and expense reimbursement of appointed counsel in certain habeas corpus cases.

SECTION 1. Differs from original Section 2(f) by deleting the phrase "or previously appointed

by the court of criminal appeals” and replacing it with the phrase “regardless of whether the attorney is appointed by the convicting court or was appointed by the court of criminal appeals under prior law.”

Differs from original Section 2(f) by adding the phrase “as provided by Section 2A.”

SECTION 2. Differs from the original bill in SECTION by adding a new text to amends Article 11.071, Code of Criminal Procedure.

SECTION 3. Differs from the original bill by redesignating proposed SECTION 2 as SECTION 3 and by deleting the proposed amendment to Subsection (a).

SECTION 4. Differs from the original bill by redesignating proposed SECTION 3 as SECTION 4 and by changing the effective date.