

BILL ANALYSIS

Senate Research Center
85R25111 MAW-D

C.S.S.B. 527
By: Birdwell
Criminal Justice
4/25/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a court is required to order a defendant to pay all or part of the cost of legal services provided to the defendant, if the defendant has the financial resources to do so. However, the court's authority to order such payment ends with the sentencing of the defendant.

S.B. 527 enables a court to order a defendant to pay all or part of the cost of legal services at any time during the defendant's confinement, placement on community supervision, or period of deferred adjudication. S.B. 527 allows local governments to recover the cost of legal services provided if a defendant acquires sufficient financial resources subsequent to sentencing. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 527 amends current law relating to a defendant's payment of costs associated with a court-appointed counsel.

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 26.05, Code of Criminal Procedure, by adding Subsection (g-1), as follows:

(g-1)(1) Provides that this subsection applies only to a defendant who at the time of sentencing to confinement or placement on community supervision, including deferred adjudication community supervision, did not have the financial resources to pay the maximum amount described by Subsection (g)(1) (relating to prohibiting a defendant from being ordered to pay an amount exceeding the actual costs paid by the county for the legal services provided by an appointed attorney) or (2) (relating to prohibiting a defendant from being ordered to pay an amount exceeding the actual amount that would have been paid to an appointed attorney had the county not had a public defender's office), as applicable, for legal services provided to the defendant.

(2) Authorizes a judge at any time during a defendant's sentence of confinement or period of community supervision, after providing written notice to the defendant and an opportunity for the defendant to present information relevant to the defendant's ability to pay, to order a defendant to whom this subsection applies to pay any unpaid portion of the amount described by Subsection (g)(1) or (g)(2), as applicable, if the judge determines that the defendant has the financial resources to pay the additional portion.

(3) Authorizes the judge to amend an order entered under Subdivision (2) if, subsequent to the judge's determination under that subdivision, the judge determines that the defendant is indigent or demonstrates an inability to pay the amount ordered.

(4) Authorizes the judge, in making a determination under this subsection, to only consider the information a court or courts' designee is authorized to consider in making an indigency determination under Article 26.04(m) (relating to considerations in determining whether a defendant is indigent).

(5) Prohibits the judge, notwithstanding any other law, from revoking or extending the defendant's period of community supervision solely to collect the amount the defendant has been ordered to pay under this subsection.

SECTION 2. Effective date: September 1, 2017.