

BILL ANALYSIS

Senate Research Center
88R11925 AJZ-D

H.B. 2523
By: Canales (Perry)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This is a refile of H.B. 2446 87(R), which ran out of time on the local and uncontested calendar last session. In Texas at any given time, there can be hundreds of people in jails outside of the county where their case would be tried. Most people housed out-of-county are for low-level felony cases, and they get transferred simply because there is no room left in the local jail.

In some counties, attorneys are paid a flat fee of as low as \$150 for a misdemeanor case that pleads guilty, or \$250 for a guilty plea in a felony case. To visit one client in jail housed out-of-county, they would drive over 100 miles without any additional compensation. Many jails charge money for anyone, even appointed lawyers, to talk on the phone with their clients. Accepting a collect phone call from jail can cost as much as \$17.25 for a 15-minute phone call. If an appointed lawyer wants to communicate with their client housed far away, they can actually lose money by doing their job.

This legislation would address this problem by reimbursing court appointed attorneys for expenses incurred for confidential communications with clients held more than 50 miles from the trial court. This will help ensure that people who are unlucky enough to get transferred to a jail out-of-county are not denied an opportunity to meet with their lawyer simply because of financial disincentives for their lawyers caused by distance.

H.B. 2523 amends current law relating to the reimbursement of expenses to certain counsel appointed to represent a defendant in a criminal proceeding.

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 amending Subsection (d) and adding Subsection (d-1), as follows:

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

(1)-(2) makes nonsubstantive changes to these subdivisions; and

(3) if the defendant is confined in a correctional facility located more than 50 miles from the court in which the defendant's proceeding is pending:

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

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

(d-1) Requires that expenses under Subsection (d) incurred with prior court approval be reimbursed in the same manner provided for capital cases by Articles 26.052(f) (relating to authorizing appointed counsel to file with the trial court a pretrial ex parte confidential request for advance payment of expenses to investigate potential defenses) and (g) (relating to requiring the court to grant the request for advance payment of expenses in whole or in part if the request is reasonable), and that expenses under Subsection (d) incurred without prior court approval be reimbursed in the manner provided for capital cases by Article 26.052(h) (relating to authorizing counsel to incur expenses without prior approval of the court).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.