

**CHAPTER 529**

**H.B. No. 393**

**An Act relating to the payment by the state of certain expenses arising from the investigation and prosecution of an inmate of the Texas Department of Corrections for certain felonies.**

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Article 1036, Code of Criminal Procedure, 1925, is amended to read as follows:

**Art. 1036. COST OF STATEMENT OF FACTS AND TRANSCRIPT.** *(a) In a prosecution of a felony committed while the actor was a prisoner in the custody of the department of corrections, the state shall reimburse the county for expenses incurred by the county, in an amount that the court determines to be reasonable, for payment of:*

- (1) salaries and expenses of foreign language interpreters and interpreters for deaf persons whose services are necessary to the prosecution;*
- (2) consultation fees of experts whose assistance is directly related to the prosecution;*
- (3) travel expenses for witnesses;*
- (4) expenses for the food and lodging of jurors;*
- (5) compensation of witnesses;*
- (6) the cost of preparation of a statement of facts and a transcript of the trial for purposes of appeal;*
- (7) if the death of a person is an element of the offense, expenses of an inquest relating to the death;*
- (8) food, lodging, and travel expenses incurred by the prosecutor's staff during travel essential to the prosecution of the offense;*
- (9) court reporter's fees; and*
- (10) the cost of special security officers.*

*(b) If there is a change of venue, the court may, in its discretion, determine that a special prosecutor should be hired for the prosecution of an offense described in Section (a) of this article, and the state shall reimburse the county for the salary and expenses of the special prosecutor if the court determines that the hiring of the special prosecutor was reasonable and necessary for effective prosecution. The amount of reimbursement may not exceed an amount that the court determines to be reasonable.*

*(c) The court shall certify the amount of reimbursement for expenses under Sections (a) and (b) of this article upon presentation by the county of an itemized and verified receipt for such expenses.*

*(d) The state shall reimburse the county for expenses incurred by the county for the investigation of an offense described in Section (a) of this article, whether or not the investigation results in the prosecution of an offense.*

*(e) The court shall certify the amount of reimbursement for expenses under Sections (a) and (b) of this article to the comptroller of public accounts. The comptroller shall issue a warrant in that amount to the commissioners court of the county, or if the comptroller determines that the amount certified by the court is unreasonable, in an amount that the comptroller determines to be reasonable.*

*(f) The commissioners court of the county shall certify the amount of reimbursement for expenses under Section (d) of this article to the comptroller of public accounts. The comptroller shall issue a warrant in that amount to the commissioners court or, if the comptroller determines that the amount certified by the commissioners court is unreasonable, in an amount that the comptroller determines to be reasonable.*

*(g) Notwithstanding anything to the contrary contained in this Act, the reimbursement for expenses submitted by the county shall not exceed the amount the county would pay for the same activity or service, if that activity or service was not reimbursed by the state. The county judge shall certify compliance with this paragraph upon request by the comptroller of public accounts.*

*(h) The state may pay to Walker County, Texas, for costs of prosecution of offenses committed while the actor was a prisoner in the custody of the Department of Corrections, or while the actor was an employee of the Department of Corrections in the discharge of his official duties. The court in which the case is tried shall certify the amount of reimbursement for expenses under this provision to the comptroller of public accounts. The comptroller shall issue a warrant in that amount to Walker County subject to the amounts appropriated for this purpose. This provision applies only to the reimbursement of expenses incurred by Walker County in a prosecution which occurs after the effective date of this Act.*

**SECTION 2.** Article 26.055, Code of Criminal Procedure, 1965, is amended to read as follows:

**Art. 26.055. CONTRIBUTION FROM STATE FOR DEFENSE OF CERTAIN PRISONERS**

**Sec. 1.** A county in which a facility of the Texas Department of Corrections is located shall pay from its general fund only the first \$250 of the aggregate sum allowed and awarded by the court for attorneys' fees[; investigation; and expert testimony] under Article 26.05 toward defending a prisoner committed to that facility who is being prosecuted for an offense committed

in that county while in the custody of the department if the prisoner was originally committed for an offense committed in another county.

Sec. 2. If the fees awarded for court-appointed counsel in a case covered by Section 1 of this article exceed \$250, the court shall certify the amount in excess of \$250 to the Comptroller of Public Accounts of the State of Texas. The comptroller shall issue a warrant to the court-appointed counsel in the amount certified to the comptroller by the court.

Sec. 3. (a) *In the defense of a prosecution of an offense committed while the actor was a prisoner in the custody of the Texas Department of Corrections, the state shall reimburse a counsel appointed to defend the actor for expenses incurred by the counsel, in an amount that the court determines to be reasonable, for payment of:*

(1) *salaries and expenses of foreign language interpreters and interpreters for deaf persons whose services are necessary to the defense;*

(2) *consultation fees of experts whose assistance is directly related to the defense;*

(3) *travel expenses for witnesses;*

(4) *compensation of witnesses;*

(5) *the cost of preparation of a statement of facts and a transcript of the trial for purposes of appeal; and*

(6) *food, lodging, and travel expenses incurred by the defense counsel and staff during travel essential to the defense, calculated on the same basis as expenses incurred by the prosecutor's staff related to essential travel are calculated.*

(b) *The trial court shall certify the amount of reimbursement for expenses under this section to the Comptroller of Public Accounts of the State of Texas. The comptroller shall issue a warrant in that amount to the defense counsel or, if the comptroller determines that the amount certified by the trial court is unreasonable, in an amount that the comptroller determines to be reasonable.*

(c) *Notwithstanding anything to the contrary contained in this Act, the reimbursement for expenses submitted by the defense counsel shall not exceed the amount the county would pay for the same activity or service, if that activity or service was not reimbursed by the state. The trial judge shall certify compliance with this paragraph upon request by the comptroller of public accounts.*

**SECTION 3.** Section 3, Article 26.055, Code of Criminal Procedure, 1965, applies only to expenses incurred by a defense counsel on or after the effective date of this Act. Article 1036, Code of Criminal Procedure, 1925, applies only to the reimbursement of expenses incurred by a county on or after the effective date of this Act, except that Section (h) applies to the reimbursement of expenses incurred in the prosecution of an offense for which the indictment was presented to or the information was filed with the court on or after September 1, 1983, and before August 31, 1985.

**SECTION 4.** (a) This Act takes effect September 1, 1985.

(b) Notwithstanding any other provision of this Act, Article 1036(h), Code of Criminal Procedure, 1925, expires August 31, 1985.

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on April 17, 1985, by a non-record vote; House refused to concur in Senate amendments to H.B. No. 393 on May 26, 1985, and requested the appointment of a conference committee to consider the differences between the two houses; House adopted the conference committee report on H.B. No. 393 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; Senate adopted the conference committee report on H.B. No. 393 on May 27, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 12, 1985

Effective: September 1, 1985