

CHAPTER 534

H.B. No. 1219

AN ACT

relating to the authority of a judge to call a Court of Inquiry and to the organization and functions of the Court of Inquiry.

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

SECTION 1. Articles 52.01 and 52.09, Code of Criminal Procedure, are amended to read as follows:

Art. 52.01. COURTS OF INQUIRY CONDUCTED BY [~~COUNTY AND~~] DISTRICT JUDGES. (a) When a judge of any [~~county or~~] district court of this state, acting in his capacity as magistrate, has good cause to believe that an offense has been committed against the laws of this state, he may summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a "Court of Inquiry".

(b) *Before calling a Court of Inquiry, a judge must:*

(1) *enter into the minutes of his court a sworn affidavit stating the good cause establishing his belief that an offense has been committed against the laws of this state; and*

(2) *no later than 10 days prior to the commencement of the Court of Inquiry, file with the district clerk a copy of the sworn affidavit and a written order calling the Court of Inquiry and stating its scope.*

(c) *The district or county attorney of the district or county in which the Court of Inquiry is held shall assist the district judge in conducting the Court of Inquiry. The attorney shall examine witnesses and evidence admitted before the court to determine if an offense has been committed and shall render other assistance to the judge as is necessary in the proceeding.*

(d) *If the Court of Inquiry pertains to the activities of the district or county attorney or to the attorney's office, deputies, or employees, or if the attorney is otherwise disqualified in the proceeding, the judge shall appoint one attorney pro tem to assist in the proceeding. In any other circumstance, the judge may appoint an attorney pro tem to assist in the proceeding.*

Art. 52.09. COSTS AND ATTORNEY'S FEES. (a) All costs incurred in conducting a Court of Inquiry, including compensation of an attorney pro tem, shall be borne by the county in which said Court of Inquiry is conducted; provided, however, that where the Attorney General of Texas has submitted a request in writing to the judge for the holding of such Court of Inquiry, then and in that event the costs shall be borne by the State of Texas and shall be taxed to the attorney general and paid in the same manner and from the same funds as other court costs.

(b) *Assistance by a county or district attorney to a Court of Inquiry is a duty of the attorney's office, and the attorney may not receive a fee for the service. A county is not liable for attorney's fees claimed for assistance in a Court of Inquiry by any attorney other than an attorney pro tem appointed under Article 52.01(d) of this code.*

(c) *An attorney pro tem appointed under Article 52.01(d) of this code is entitled to compensation in the same manner as an attorney pro tem appointed under Article 2.07 of this code. The district judge shall set the compensation of the attorney pro tem based on the sworn testimony of the attorney or other evidence that is given in open court.*

SECTION 2. The change in law made by this Act applies only to a Court of Inquiry commenced on or after the effective date of this Act. A Court of Inquiry commenced before the effective date of this Act is governed by the law in effect at the time the Court of Inquiry commenced, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. 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.

Passed by the House on May 6, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 1219 on June 1, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1219 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1219 on June 1, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.