

CHAPTER 507

H.B. No. 313

AN ACT

relating to the evaluation of certain criminal defendants to determine a need for drug or alcohol counseling and to the cost of the evaluation.

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

SECTION 1. Section 4(h), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(h) Except as otherwise provided by this subsection, if a defendant is charged with an offense under Article 67011-1, Revised Statutes, and the offense is punishable under Subsection (c) of that article, the court shall direct a probation officer or other person *or agency* approved by the *court or the* probation department for that purpose to conduct an evaluation to determine the appropriateness of alcohol or drug rehabilitation for the defendant and to report that evaluation to the court. The evaluation *shall* ~~may~~ be made:

- (1) *after arrest and before conviction, if requested by the defendant;*
- (2) *after conviction and before sentencing, if the court assesses punishment in the case;*
- (3) *after sentencing and before the entry of a final judgment, if the jury assesses punishment in the case; or*
- (4) *after probation is granted, if the evaluation is required as a condition of probation under Section 6b of this article* ~~[at any time, except that if the defendant elects to have a jury assess punishment, the court may not order an evaluation until after sentencing. The court is not required to request an evaluation and report if it determines that the resources required to properly conduct the evaluation are not available in the county].~~

SECTION 2. Section 6b, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) If a court grants probation to a defendant convicted of an offense under Article 67011-1, Revised Statutes, and punished under Subsection (c) of that article, and if before receiving probation the defendant has not submitted to an evaluation under Section 4(h) of this article, the court shall require the defendant to submit to the evaluation as a condition of probation. If the evaluation indicates to the court that the defendant is in need of treatment for drug or alcohol dependency, the court shall require the defendant to submit to that treatment as a condition of probation.

SECTION 3. Article 67011-1, Revised Statutes, is amended by adding Subsection (m) to read as follows:

(m) On conviction of an offense punishable under Subsection (c) of this article, the court shall impose as a cost of court on the defendant an amount that is equal to the cost of an evaluation of the defendant performed under Section 4(h) or 6b(g), Article 42.12, Code of Criminal Procedure. Costs imposed under this subsection are in addition to other court costs and are due whether or not the defendant is granted probation in the case, except that if the court determines that the defendant is indigent and unable to pay the cost, the court may waive the imposition of the cost.

SECTION 4. (a) The change in law made by this Act applies only to an evaluation of a defendant who commits an offense on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) The evaluation of a defendant who commits an offense before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. This Act takes effect September 1, 1987.

SECTION 6. 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 14, 1987, by a non-record vote. Passed by the Senate on May 25, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Sept. 1, 1987.