CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 26. ARRAIGNMENT

Art. 26.01. ARRAIGNMENT. In all felony cases, after indictment, and all misdemeanor cases punishable by imprisonment, there shall be an arraignment.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.011. WAIVER OF ARRAIGNMENT. An attorney representing a defendant may present a waiver of arraignment, and the clerk of the court may not require the presence of the defendant as a condition of accepting the waiver.

Added by Acts 2001, 77th Leg., ch. 818, Sec. 1, eff. June 14, 2001.

Art. 26.02. PURPOSE OF ARRAIGNMENT. An arraignment takes place for the purpose of fixing his identity and hearing his plea.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.03. TIME OF ARRAIGNMENT. No arraignment shall take place until the expiration of at least two entire days after the day on which a copy of the indictment was served on the defendant, unless the right to such copy or to such delay be waived, or unless the defendant is on bail.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.04. PROCEDURES FOR APPOINTING COUNSEL. (a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 15.18, 26.05, and 26.052 and must provide for the priority appointment of a public defender's office as described by Subsection (f). A court shall appoint an attorney from a public

appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

(b) Procedures adopted under Subsection (a) shall:

(1) authorize only the judges of the county courts, statutory county courts, and district courts trying criminal cases in the county, or the judges' designee, to appoint counsel for indigent defendants in the county;

(2) apply to each appointment of counsel made by a judge or the judges' designee in the county;

(3) ensure that each indigent defendant in the county who is charged with a misdemeanor punishable by confinement or with a felony and who appears in court without counsel has an opportunity to confer with appointed counsel before the commencement of judicial proceedings;

(4) require appointments for defendants in capital cases in which the death penalty is sought to comply with any applicable requirements under Articles 11.071 and 26.052;

(5) ensure that each attorney appointed from a public appointment list to represent an indigent defendant perform the attorney's duty owed to the defendant in accordance with the adopted procedures, the requirements of this code, and applicable rules of ethics; and

(6) ensure that appointments are allocated among qualified attorneys in a manner that is fair, neutral, and nondiscriminatory.

(c) Whenever a court or the courts' designee authorized under Subsection (b) to appoint counsel for indigent defendants in the county determines for purposes of a criminal proceeding that a defendant charged with or appealing a conviction of a felony or a misdemeanor punishable by confinement is indigent or that the interests of justice require representation of a defendant in the

proceeding, the court or the courts' designee shall appoint one or more practicing attorneys to represent the defendant in accordance with this subsection and the procedures adopted under Subsection (a). If the court or the courts' designee determines that the defendant does not speak and understand the English language or that the defendant is deaf, the court or the courts' designee shall make an effort to appoint an attorney who is capable of communicating in a language understood by the defendant.

(d) A public appointment list from which an attorney is appointed as required by Subsection (a) shall contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets the objective qualifications specified by the judges under Subsection (e);

(3) meets any applicable qualifications specified by the Texas Indigent Defense Commission; and

(4) is approved by a majority of the judges who established the appointment list under Subsection (e).

(e) In a county in which a court is required under Subsection (a) to appoint an attorney from a public appointment list:

(1) the judges of the county courts and statutory county courts trying misdemeanor cases in the county, by formal action:

(A) shall:

(i) establish a public appointment list of attorneys qualified to provide representation in the county in misdemeanor cases punishable by confinement; and

(ii) specify the objective qualifications necessary for an attorney to be included on the list; and

(B) may establish, if determined by the judges to be appropriate, more than one appointment list graduated according to the degree of seriousness of the offense, the attorneys' qualifications, and whether representation will be provided in trial court proceedings, appellate proceedings, or both; and

(2) the judges of the district courts trying felony cases in the county, by formal action:

(A) shall:

(i) establish a public appointment list of attorneys qualified to provide representation in felony cases in the county; and

(ii) specify the objective qualifications necessary for an attorney to be included on the list; and

(B) may establish, if determined by the judges to be appropriate, more than one appointment list graduated according to the degree of seriousness of the offense, the attorneys' qualifications, and whether representation will be provided in trial court proceedings, appellate proceedings, or both.

(f) In a county with a public defender's office, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

(1) the court makes a finding of good cause for appointing other counsel, provided that in a capital murder case, the court makes a finding of good cause on the record for appointing that counsel;

(2) the appointment would be contrary to the office's written plan under Article 26.044;

(3) the office is prohibited from accepting the appointment under Article 26.044(j); or

(4) a managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

(f-1) In a county in which a managed assigned counsel program is operated in accordance with Article 26.047, the managed assigned counsel program may appoint counsel to represent the defendant in accordance with the guidelines established for the program.

(g) A countywide alternative program for appointing counsel for indigent defendants in criminal cases is established by a formal action in which two-thirds of the judges of the courts designated under this subsection vote to establish the alternative program. An alternative program for appointing counsel in misdemeanor and felony cases may be established in the manner

provided by this subsection by the judges of the county courts, statutory county courts, and district courts trying criminal cases in the county. An alternative program for appointing counsel in misdemeanor cases may be established in the manner provided by this subsection by the judges of the county courts and statutory county courts trying criminal cases in the county. An alternative program for appointing counsel in felony cases may be established in the manner provided by this subsection by the judges of the district courts trying criminal cases in the county. In a county in which an alternative program is established:

(1) the alternative program may:

(A) use a single method for appointing counsel or a combination of methods; and

(B) use a multicounty appointment list using a system of rotation; and

(2) the procedures adopted under Subsection (a) must ensure that:

(A) attorneys appointed using the alternative program to represent defendants in misdemeanor cases punishable by confinement:

(i) meet specified objective qualifications for that representation, which may be graduated according to the degree of seriousness of the offense and whether representation will be provided in trial court proceedings, appellate proceedings, or both; and

(ii) are approved by a majority of the judges of the county courts and statutory county courts trying misdemeanor cases in the county;

(B) attorneys appointed using the alternative program to represent defendants in felony cases:

(i) meet specified objective qualifications for that representation, which may be graduated according to the degree of seriousness of the offense and whether representation will be provided in trial court proceedings, appellate proceedings, or both; and

(ii) are approved by a majority of the judges of the district courts trying felony cases in the county;

(C) appointments for defendants in capital cases in which the death penalty is sought comply with the requirements of Article 26.052; and

(D) appointments are reasonably and impartially allocated among qualified attorneys.

(h) Subject to Subsection (f), in a county in which an alternative program for appointing counsel is established as provided by Subsection (g) and is approved by the presiding judge of the administrative judicial region, a court or the courts' designee may appoint an attorney to represent an indigent defendant by using the alternative program. In establishing an alternative program under Subsection (g), the judges of the courts establishing the program may not, without the approval of the commissioners court, obligate the county by contract or by the creation of new positions that cause an increase in expenditure of county funds.

(i) Subject to Subsection (f), a court or the courts' designee required under Subsection (c) to appoint an attorney to represent a defendant accused or convicted of a felony may appoint an attorney from any county located in the court's administrative judicial region.

(j) An attorney appointed under this article shall:

(1) make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed;

(2) represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record;

(3) with respect to a defendant not represented by other counsel, before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty:

(A) advise the defendant of the defendant's right to file a motion for new trial and a notice of appeal;

(B) if the defendant wishes to pursue either or both remedies described by Paragraph (A), assist the defendant in

requesting the prompt appointment of replacement counsel; and

(C) if replacement counsel is not appointed promptly and the defendant wishes to pursue an appeal, file a timely notice of appeal; and

(4) not later than October 15 of each year and on a form prescribed by the Texas Indigent Defense Commission, submit to the county information, for the preceding fiscal year, that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in the county under this article and Title 3, Family Code.

(k) A court may replace an attorney who violates Subsection (j)(1) with other counsel. A majority of the judges of the county courts and statutory county courts or the district courts, as appropriate, trying criminal cases in the county may remove from consideration for appointment an attorney who intentionally or repeatedly violates Subsection (j)(1).

(l) Procedures adopted under Subsection (a) must include procedures and financial standards for determining whether a defendant is indigent. The procedures and standards shall apply to each defendant in the county equally, regardless of whether the defendant is in custody or has been released on bail.

(m) In determining whether a defendant is indigent, the court or the courts' designee may consider the defendant's income, source of income, assets, property owned, outstanding obligations, necessary expenses, the number and ages of dependents, and spousal income that is available to the defendant. The court or the courts' designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant's financial circumstances as measured by the considerations listed in this subsection.

(n) A defendant who requests a determination of indigency and appointment of counsel shall:

(1) complete under oath a questionnaire concerning his financial resources;

(2) respond under oath to an examination regarding his financial resources by the judge or magistrate responsible for determining whether the defendant is indigent; or

(3) complete the questionnaire and respond to examination by the judge or magistrate.

(o) Before making a determination of whether a defendant is indigent, the court shall request the defendant to sign under oath a statement substantially in the following form:

"On this _____ day of _____, 20 ___, I have been advised by the (name of the court) Court of my right to representation by counsel in connection with the charge pending against me. I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me. (signature of the defendant)"

(p) A defendant who is determined by the court to be indigent is presumed to remain indigent for the remainder of the proceedings in the case unless a material change in the defendant's financial circumstances occurs. If there is a material change in financial circumstances after a determination of indigency or nonindigency is made, the defendant, the defendant's counsel, or the attorney representing the state may move for reconsideration of the determination.

(q) A written or oral statement elicited under this article or evidence derived from the statement may not be used for any purpose, except to determine the defendant's indigency or to impeach the direct testimony of the defendant. This subsection does not prohibit prosecution of the defendant under Chapter 37, Penal Code.

(r) A court may not threaten to arrest or incarcerate a person solely because the person requests the assistance of counsel.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1987, 70th Leg., ch. 979, Sec. 2, eff. Sept. 1, 1987.

Amended by Acts 2001, 77th Leg., ch. 906, Sec. 6, eff. Jan. 1, 2002.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 671 (S.B. 1681), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 1(a), eff. September 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 595 (S.B. 316), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 858 (S.B. 1517), Sec. 4, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 591 (S.B. 583), Sec. 1, eff. September 1, 2019.

Art. 26.041. PROCEDURES RELATED TO GUARDIANSHIPS. (a) In this article:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(2) "Letters of guardianship" means a certificate issued under Section 1106.001(a), Estates Code.

(b) A guardian who provides a court with letters of guardianship for a defendant may:

(1) provide information relevant to the determination of indigency; and

(2) request that counsel be appointed in accordance with this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 688 (H.B. 634), Sec. 1, eff. September 1, 2015.

Art. 26.044. PUBLIC DEFENDER'S OFFICE. (a) In this chapter:

(1) "Governmental entity" includes a county, a group of counties, a department of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

(2) "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B, Chapter 78, Government Code.

(3) "Oversight board" means an oversight board

established in accordance with Article 26.045.

(4) "Public defender's office" means an entity that:

(A) is either:

(i) a governmental entity; or

(ii) a nonprofit corporation operating under a written agreement with a governmental entity, other than an individual judge or court; and

(B) uses public funds to provide legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 79.001, Government Code.

(b) The commissioners court of any county, on written approval of a judge of a county court, statutory county court, or district court trying criminal cases or cases under Title 3, Family Code, in the county, may create a department of the county or by contract may designate a nonprofit corporation to serve as a public defender's office. The commissioners courts of two or more counties may enter into a written agreement to jointly create or designate and jointly fund a regional public defender's office. In creating or designating a public defender's office under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify, if creating or designating a regional public defender's office:

(1) the duties of the public defender's office;

(2) the types of cases to which the public defender's office may be appointed under Article 26.04(f) and the courts in which an attorney employed by the public defender's office may be required to appear;

(3) if the public defender's office is a nonprofit corporation, the term during which the contract designating the public defender's office is effective and how that contract may be renewed on expiration of the term; and

(4) if an oversight board is established under Article 26.045 for the public defender's office, the powers and duties that have been delegated to the oversight board.

(b-1) The applicable commissioners court or commissioners courts shall require a written plan from a governmental entity

serving as a public defender's office.

(c) Before contracting with a nonprofit corporation to serve as a public defender's office under Subsection (b), the commissioners court or commissioners courts shall solicit proposals for the public defender's office.

(c-1) A written plan under Subsection (b-1) or a proposal under Subsection (c) must include:

(1) a budget for the public defender's office, including salaries;

(2) a description of each personnel position, including the chief public defender position;

(3) the maximum allowable caseloads for each attorney employed by the public defender's office;

(4) provisions for personnel training;

(5) a description of anticipated overhead costs for the public defender's office;

(6) policies regarding the use of licensed investigators and expert witnesses by the public defender's office; and

(7) a policy to ensure that the chief public defender and other attorneys employed by the public defender's office do not provide representation to a defendant if doing so would create a conflict of interest that has not been waived by the client.

(d) After considering each proposal for the public defender's office submitted by a nonprofit corporation under Subsection (c), the commissioners court or commissioners courts shall select a proposal that reasonably demonstrates that the public defender's office will provide adequate quality representation for indigent defendants in the county or counties.

(e) The total cost of the proposal under Subsection (c) may not be the sole consideration in selecting a proposal.

(f) A public defender's office must be directed by a chief public defender who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(g) A public defender's office is entitled to receive funds for personnel costs and expenses incurred in operating as a public defender's office in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the public defender's office serves more than one county.

(h) A public defender's office may employ attorneys, licensed investigators, and other personnel necessary to perform the duties of the public defender's office as specified by the commissioners court or commissioners courts under Subsection (b)(1).

(i) Except as authorized by this article, the chief public defender and other attorneys employed by a public defender's office may not:

(1) engage in the private practice of criminal law; or

(2) accept anything of value not authorized by this article for services rendered under this article.

(j) A public defender's office may not accept an appointment under Article 26.04(f) if:

(1) a conflict of interest exists that has not been waived by the client;

(2) the public defender's office has insufficient resources to provide adequate representation for the defendant;

(3) the public defender's office is incapable of providing representation for the defendant in accordance with the rules of professional conduct;

(4) the acceptance of the appointment would violate the maximum allowable caseloads established at the public defender's office; or

(5) the public defender's office shows other good cause for not accepting the appointment.

(j-1) On refusing an appointment under Subsection (j), a chief public defender shall file with the court a written statement that identifies any reason for refusing the appointment. The court shall determine whether the chief public defender has demonstrated adequate good cause for refusing the appointment and shall include

the statement with the papers in the case.

(j-2) A chief public defender may not be terminated, removed, or sanctioned for refusing in good faith to accept an appointment under Subsection (j).

(k) The judge may remove from a case a person who violates a provision of Subsection (i).

(l) A public defender's office may investigate the financial condition of any person the public defender's office is appointed to represent. The public defender's office shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this article.

(m) If it is necessary that an attorney who is not employed by a public defender's office be appointed, the attorney is entitled to the compensation provided by Article 26.05 of this code.

(n) An attorney employed by a public defender's office may be appointed with respect to an application for a writ of habeas corpus filed under Article 11.071 only if:

(1) an attorney employed by the office of capital writs is not appointed in the case; and

(2) the attorney employed by the public defender's office is on the list of competent counsel maintained under Section 78.056, Government Code.

Added by Acts 1985, 69th Leg., ch. 480, Sec. 17, eff. Sept. 1, 1985.

Amended by Acts 1987, 70th Leg., ch. 167, Sec. 4.03(a), eff. Sept. 1, 1987.

Amended by Acts 2001, 77th Leg., ch. 906, Sec. 7, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 965 (H.B. 1701), Sec. 6, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 866 (H.B. 577), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 6, eff. September 1, 2015.

Art. 26.045. PUBLIC DEFENDER OVERSIGHT BOARD. (a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for a public defender's office created or designated in accordance with this chapter.

(b) The commissioners court or courts that establish an oversight board under this article shall appoint members of the board. Members may include one or more of the following:

(1) an attorney;

(2) the judge of a trial court in this state;

(3) a county commissioner;

(4) a county judge;

(5) a community representative; and

(6) a former client or a family member of a former client of the public defender's office for which the oversight board was established under this article.

(c) The commissioners court or courts may delegate to the board any power or duty of the commissioners court to provide oversight of the office under Article 26.044, including:

(1) recommending selection and removal of a chief public defender;

(2) setting policy for the office; and

(3) developing a budget proposal for the office.

(d) An oversight board established under this article may not gain access to privileged or confidential information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 10, eff. September 1, 2011.

Art. 26.047. MANAGED ASSIGNED COUNSEL PROGRAM. (a) In this article:

(1) "Governmental entity" has the meaning assigned by Article 26.044.

(2) "Managed assigned counsel program" or "program" means a program operated with public funds:

(A) by a governmental entity, nonprofit corporation, or bar association under a written agreement with a governmental entity, other than an individual judge or court; and

(B) for the purpose of appointing counsel under Article 26.04 of this code or Section 51.10, Family Code.

(b) The commissioners court of any county, on written approval of a judge of the juvenile court of a county or a county court, statutory county court, or district court trying criminal cases in the county, may appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. In appointing an entity to operate a managed assigned counsel program under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify:

(1) the types of cases in which the program may appoint counsel under Article 26.04 of this code or Section 51.10, Family Code, and the courts in which the counsel appointed by the program may be required to appear; and

(2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

(c) The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this article. The plan of operation must include:

(1) a budget for the program, including salaries;

(2) a description of each personnel position, including the program's director;

(3) the maximum allowable caseload for each attorney appointed by the program;

(4) provisions for training personnel of the program and attorneys appointed under the program;

(5) a description of anticipated overhead costs for the program;

(6) a policy regarding licensed investigators and expert witnesses used by attorneys appointed under the program;

(7) a policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys; and

(8) a policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for the attorney that has not been waived by all affected clients.

(d) A program under this article must have a director. Unless the program uses a review committee appointed under Subsection (e), a program under this article must be directed by a person who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(e) The governmental entity, nonprofit corporation, or bar association operating the program may appoint a review committee of three or more individuals to approve attorneys for inclusion on the program's public appointment list described by Subsection (f). Each member of the committee:

(1) must meet the requirements described by Subsection (d);

(2) may not be employed as a prosecutor; and

(3) may not be included on or apply for inclusion on the public appointment list described by Subsection (f).

(f) The program's public appointment list from which an attorney is appointed must contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets any applicable requirements specified by the procedure for appointing counsel adopted under Article 26.04(a) and

the Texas Indigent Defense Commission; and

(3) is approved by the program director or review committee, as applicable.

(g) A court may replace an attorney appointed by the program for the same reasons and in the same manner described by Article 26.04(k).

(h) A managed assigned counsel program is entitled to receive funds for personnel costs and expenses incurred in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the program serves more than one county.

(i) A managed assigned counsel program may employ personnel and enter into contracts necessary to perform the program's duties as specified by the commissioners court or commissioners courts under this article.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 11, eff. September 1, 2011.

Art. 26.05. COMPENSATION OF COUNSEL APPOINTED TO DEFEND. (a) A counsel, other than an attorney with a public defender's office or an attorney employed by the office of capital and forensic writs, appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel:

(1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

(2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;

(3) preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and

(4) preparation of a motion for rehearing.

(b) All payments made under this article shall be paid in accordance with a schedule of fees adopted by formal action of the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county. On adoption of a schedule of fees as provided by this subsection, a copy of the schedule shall be sent to the commissioners court of the county.

(c) Each fee schedule adopted shall state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and shall provide a form for the appointed counsel to itemize the types of services performed. No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable, approves the payment. If the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region. On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an application for payment of a fee is submitted under this article, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.

(d) A counsel in a noncapital case, other than an attorney

with a public defender's office, appointed to represent a defendant under this code shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052(f) and (g), and expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052(h).

(e) A majority of the judges of the county courts and statutory county courts or the district courts, as appropriate, trying criminal cases in the county may remove an attorney from consideration for appointment if, after a hearing, it is shown that the attorney submitted a claim for legal services not performed by the attorney.

(f) All payments made under this article shall be paid from the general fund of the county in which the prosecution was instituted or habeas corpus hearing held and may be included as reimbursement fees.

(g) If the judge determines that a defendant has financial resources that enable the defendant to offset in part or in whole the costs of the legal services provided to the defendant in accordance with Article 1.051(c) or (d), including any expenses and costs, the judge shall order the defendant to pay during the pendency of the charges or, if convicted, as a reimbursement fee the amount that the judge finds the defendant is able to pay. The defendant may not be ordered to pay an amount that exceeds:

(1) the actual costs, including any expenses and costs, paid by the county for the legal services provided by an appointed attorney; or

(2) if the defendant was represented by a public defender's office, the actual amount, including any expenses and costs, that would have otherwise been paid to an appointed attorney had the county not had a public defender's office.

(g-1)(1) 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) or (2), as applicable, for legal services provided to the defendant.

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

(3) The judge may 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) In making a determination under this subsection, the judge may only consider the information a court or courts' designee is authorized to consider in making an indigency determination under Article 26.04(m).

(5) Notwithstanding any other law, the judge may not revoke or extend the defendant's period of community supervision solely to collect the amount the defendant has been ordered to pay under this subsection.

(h) Reimbursement of expenses incurred for purposes of investigation or expert testimony may be paid directly to a private investigator licensed under Chapter 1702, Occupations Code, or to an expert witness in the manner designated by appointed counsel and approved by the court.

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 984, Sec. 15(1), eff. September 1, 2011.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1969, 61st Leg., p. 1054, ch. 347, Sec. 1, eff. May 27, 1969; Acts 1971, 62nd Leg., p. 1777, ch. 520, Sec. 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1126, ch. 426, art. 3, Sec. 3, eff. June 14, 1973; Acts 1981, 67th Leg., p. 803, ch. 291, Sec. 106, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 979, Sec. 3, eff. Sept. 1, 1987.

Subsec. (f) added by Acts 1999, 76th Leg., ch. 837, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 906, Sec. 8, eff. Jan. 1, 2002; Subsec. (f) amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.734, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1014 (H.B. 1267), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 781 (S.B. 1091), Sec. 9, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 12, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 15(1), eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 106 (H.B. 3633), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1215 (S.B. 1743), Sec. 7, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 554 (S.B. 527), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.07, eff. January 1, 2020.

Art. 26.051. INDIGENT INMATE DEFENSE. (a) In this article:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Correctional institutions division" means the correctional institutions division of the Texas Department of Criminal Justice.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1014, Sec. 7, eff. September 1, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1014, Sec. 7, eff. September 1, 2007.

(d) A court shall:

(1) notify the board if it determines that a defendant before the court is indigent and is an inmate charged with an offense committed while in the custody of the correctional institutions division or a correctional facility authorized by Section 495.001, Government Code; and

(2) request that the board provide legal representation for the inmate.

(e) The board shall provide legal representation for inmates described by Subsection (d) of this section. The board may employ attorneys, support staff, and any other personnel required to provide legal representation for those inmates. All personnel employed under this article are directly responsible to the board in the performance of their duties. The board shall pay all fees and costs associated with providing legal representation for those inmates.

(f) Repealed by Acts 1993, 73rd Leg., ch. 988, Sec. 7.02, eff. Sept. 1, 1993.

(g) The court shall appoint an attorney other than an attorney provided by the board if the court determines for any of the following reasons that a conflict of interest could arise from the use of an attorney provided by the board under Subsection (e) of this article:

(1) the case involves more than one inmate and the representation of more than one inmate could impair the attorney's effectiveness;

(2) the case is appealed and the court is satisfied that conflict of interest would prevent the presentation of a good faith allegation of ineffective assistance of counsel by a trial attorney provided by the board; or

(3) any conflict of interest exists under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas that precludes representation by an attorney appointed by the board.

(h) When the court appoints an attorney other than an attorney provided by the board:

(1) except as otherwise provided by this article, the inmate's legal defense is subject to Articles 1.051, 26.04, 26.05, and 26.052, as applicable; and

(2) the county in which a facility of the correctional institutions division or a correctional facility authorized by Section 495.001, Government Code, is located shall pay from its general fund the total costs of the aggregate amount allowed and

awarded by the court for attorney compensation and expenses under Article 26.05 or 26.052, as applicable.

(i) The state shall reimburse a county for attorney compensation and expenses awarded under Subsection (h). A court seeking reimbursement for a county shall certify to the comptroller of public accounts the amount of compensation and expenses for which the county is entitled to be reimbursed under this article. Not later than the 60th day after the date the comptroller receives from the court the request for reimbursement, the comptroller shall issue a warrant to the county in the amount certified by the court.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 15, Sec. 2, eff. June 14, 1990. Subsec. (c) amended by and Subsec. (f) added by Acts 1991, 72nd Leg., ch. 719, Sec. 1, eff. Sept. 1, 1991; Subsec. (f) repealed by Acts 1993, 73rd Leg., ch. 988, Sec. 7.02, eff. Sept. 1, 1993; Subsecs. (g), (h) added by Acts 1993, 73rd Leg., ch. 988, Sec. 7.01, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1014 (H.B. 1267), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1014 (H.B. 1267), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1014 (H.B. 1267), Sec. 7, eff. September 1, 2007.

Art. 26.052. APPOINTMENT OF COUNSEL IN DEATH PENALTY CASE; REIMBURSEMENT OF INVESTIGATIVE EXPENSES. (a) Notwithstanding any other provision of this chapter, this article establishes procedures in death penalty cases for appointment and payment of counsel to represent indigent defendants at trial and on direct appeal and to apply for writ of certiorari in the United States Supreme Court.

(b) If a county is served by a public defender's office, trial counsel and counsel for direct appeal or to apply for a writ of certiorari may be appointed as provided by the guidelines established by the public defender's office. In all other cases in which the death penalty is sought, counsel shall be appointed as

provided by this article.

(c) A local selection committee is created in each administrative judicial region created under Section 74.042, Government Code. The administrative judge of the judicial region shall appoint the members of the committee. A committee shall have not less than four members, including:

(1) the administrative judge of the judicial region;

(2) at least one district judge;

(3) a representative from the local bar association; and

(4) at least one practitioner who is board certified by the State Bar of Texas in criminal law.

(d)(1) The committee shall adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

(2) The standards must require that a trial attorney appointed as lead counsel to a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the local selection committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects the attorney's ability to provide effective representation;

(D) have at least five years of criminal law experience;

(E) have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;

(F) have trial experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial;

and

(G) have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

(3) The standards must require that an attorney appointed as lead appellate counsel in the direct appeal of a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the local selection committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects the attorney's ability to provide effective representation;

(D) have at least five years of criminal law experience;

(E) have authored a significant number of appellate briefs, including appellate briefs for homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first degree or an offense described by Article 42A.054(a);

(F) have trial or appellate experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) the use of mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in appealing death penalty cases.

(4) The committee shall prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

(5) Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for

appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training relating to criminal defense in death penalty cases or in appealing death penalty cases, as applicable. The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

(e) The presiding judge of the district court in which a capital felony case is filed shall appoint two attorneys, at least one of whom must be qualified under this chapter, to represent an indigent defendant as soon as practicable after charges are filed, unless the state gives notice in writing that the state will not seek the death penalty.

(f) Appointed counsel may file with the trial court a pretrial ex parte confidential request for advance payment of expenses to investigate potential defenses. The request for expenses must state:

(1) the type of investigation to be conducted;

(2) specific facts that suggest the investigation will result in admissible evidence; and

(3) an itemized list of anticipated expenses for each investigation.

(g) The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:

(1) state the reasons for the denial in writing;

(2) attach the denial to the confidential request; and

(3) submit the request and denial as a sealed exhibit to the record.

(h) Counsel may incur expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred.

(i) If the indigent defendant is convicted of a capital felony and sentenced to death, the defendant is entitled to be represented by competent counsel on appeal and to apply for a writ of certiorari to the United States Supreme Court.

(j) As soon as practicable after a death sentence is imposed in a capital felony case, the presiding judge of the convicting court shall appoint counsel to represent an indigent defendant on appeal and to apply for a writ of certiorari, if appropriate.

(k) The court may not appoint an attorney as counsel on appeal if the attorney represented the defendant at trial, unless:

(1) the defendant and the attorney request the appointment on the record; and

(2) the court finds good cause to make the appointment.

(l) An attorney appointed under this article to represent a defendant at trial or on direct appeal is compensated as provided by Article 26.05 from county funds. Advance payment of expenses anticipated or reimbursement of expenses incurred for purposes of investigation or expert testimony may be paid directly to a private investigator licensed under Chapter 1702, Occupations Code, or to an expert witness in the manner designated by appointed counsel and approved by the court.

(m) The local selection committee shall annually review the list of attorneys posted under Subsection (d) to ensure that each listed attorney satisfies the requirements under this chapter.

(n) At the request of an attorney, the local selection committee shall make a determination under Subsection (d)(2)(C) or (3)(C), as applicable, regarding an attorney's current ability to provide effective representation following a judicial finding that the attorney previously rendered ineffective assistance of counsel in a capital case.

Added by Acts 1995, 74th Leg., ch. 319, Sec. 2, eff. Sept. 1, 1995. Subsec. (l) amended by Acts 1999, 76th Leg., ch. 837, Sec. 2, eff. Sept. 1, 1999; Subsecs. (d), (e) amended by Acts 2001, 77th Leg., ch. 906, Sec. 9, eff. Jan. 1, 2002; Subsec. (l) amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.735, eff. Sept. 1, 2001; Subsec. (m) added by Acts 2001, 77th Leg., ch. 906, Sec. 9, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 14, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 965 (H.B. 1701), Sec. 7, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 32 (H.B. 2058), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1343 (S.B. 1308), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.06, eff. January 1, 2017.

Art. 26.056. CONTRIBUTION FROM STATE IN CERTAIN COUNTIES.

Sec. 1. A county in which a state training school for delinquent children is located shall pay from its general fund the first $250 of fees awarded for court-appointed counsel under Article 26.05 toward defending a child committed to the school from another county who is being prosecuted for a felony or misdemeanor in the county where the training school is located.

Sec. 2. If the fees awarded for counsel compensation are in excess of $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.

Acts 1967, 60th Leg., p. 733, ch. 307, Sec. 1, eff. Aug. 28, 1967. Renumbered from art. 26.05-1 by Acts 1987, 70th Leg., ch. 167, Sec. 5.02(2), eff. Sept. 1, 1987.

Art. 26.06. ELECTED OFFICIALS NOT TO BE APPOINTED. No court may appoint an elected county, district or state official to represent a person accused of crime, unless the official has notified the court of his availability for appointment. If an official has notified the court of his availability and is appointed as counsel, he may decline the appointment if he determines that it is in the best interest of his office to do so. Nothing in this Code shall modify any statutory provision for legislative continuance.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.07. NAME AS STATED IN INDICTMENT. When the defendant is arraigned, his name, as stated in the indictment, shall be distinctly called; and unless he suggest by himself or counsel that he is not indicted by his true name, it shall be taken that his name is truly set forth, and he shall not thereafter be allowed to deny the same by way of defense.
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.08. IF DEFENDANT SUGGESTS DIFFERENT NAME. If the defendant, or his counsel for him, suggests that he bears some name different from that stated in the indictment, the same shall be noted upon the minutes of the court, the indictment corrected by inserting therein the name of the defendant as suggested by himself or his counsel for him, the style of the case changed so as to give his true name, and the cause proceed as if the true name had been first recited in the indictment.
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.09. IF ACCUSED REFUSES TO GIVE HIS REAL NAME. If the defendant alleges that he is not indicted by his true name, and refuses to say what his real name is, the cause shall proceed as if the name stated in the indictment were true; and the defendant shall not be allowed to contradict the same by way of defense.
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.10. WHERE NAME IS UNKNOWN. A defendant described as a person whose name is unknown may have the indictment so corrected as to give therein his true name.
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.11. INDICTMENT READ. The name of the accused having been called, if no suggestion, such as is spoken of in the four preceding Articles, be made, or being made is disposed of as before directed, the indictment shall be read, and the defendant asked whether he is guilty or not, as therein charged.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.12. PLEA OF NOT GUILTY ENTERED. If the defendant answers that he is not guilty, such plea shall be entered upon the minutes of the court; if he refuses to answer, the plea of not guilty shall in like manner be entered.
Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.13. PLEA OF GUILTY. (a) Prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of:

(1) the range of the punishment attached to the offense;

(2) the fact that the recommendation of the prosecuting attorney as to punishment is not binding on the court. Provided that the court shall inquire as to the existence of a plea bargain agreement between the state and the defendant and, if an agreement exists, the court shall inform the defendant whether it will follow or reject the agreement in open court and before any finding on the plea. Should the court reject the agreement, the defendant shall be permitted to withdraw the defendant's plea of guilty or nolo contendere;

(3) the fact that if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and the defendant's attorney, the trial court must give its permission to the defendant before the defendant may prosecute an appeal on any matter in the case except for those matters raised by written motions filed prior to trial;

(4) the fact that if the defendant is not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law;

(5) the fact that the defendant will be required to meet the registration requirements of Chapter 62, if the defendant is convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under that chapter;

and

(6) the fact that if the defendant is placed on community supervision, after satisfactorily fulfilling the conditions of community supervision and on expiration of the period of community supervision, the court is authorized to release the defendant from the penalties and disabilities resulting from the offense as provided by Article 42A.701(f).

(b) No plea of guilty or plea of nolo contendere shall be accepted by the court unless it appears that the defendant is mentally competent and the plea is free and voluntary.

(c) In admonishing the defendant as herein provided, substantial compliance by the court is sufficient, unless the defendant affirmatively shows that he was not aware of the consequences of his plea and that he was misled or harmed by the admonishment of the court.

(d) Except as provided by Subsection (d-1), the court may make the admonitions required by this article either orally or in writing. If the court makes the admonitions in writing, it must receive a statement signed by the defendant and the defendant's attorney that the defendant understands the admonitions and is aware of the consequences of the plea. If the defendant is unable or refuses to sign the statement, the court shall make the admonitions orally.

(d-1) The court shall make the admonition required by Subsection (a)(4) both orally and in writing. Unless the court has received the statement as described by Subsection (d), the court must receive a statement signed by the defendant and the defendant's attorney that the defendant understands the admonition required by Subsection (a)(4) and is aware of the consequences of the plea. If the defendant is unable or refuses to sign the statement, the court shall make a record of that fact.

(e) Before accepting a plea of guilty or a plea of nolo contendere, the court shall, as applicable in the case:

(1) inquire as to whether a victim impact statement has been returned to the attorney representing the state and ask for a copy of the statement if one has been returned; and

(2) inquire as to whether the attorney representing

the state has given notice of the existence and terms of any plea bargain agreement to the victim, guardian of a victim, or close relative of a deceased victim, as those terms are defined by Article 56A.001.

(f) The court must substantially comply with Subsection (e) of this article. The failure of the court to comply with Subsection (e) of this article is not grounds for the defendant to set aside the conviction, sentence, or plea.

(g) Before accepting a plea of guilty or a plea of nolo contendere and on the request of a victim of the offense, the court may assist the victim and the defendant in participating in a victim-offender mediation program.

(h) The court must substantially comply with Subsection (a)(5). The failure of the court to comply with Subsection (a)(5) is not a ground for the defendant to set aside the conviction, sentence, or plea.

(h-1) The court must substantially comply with Subsection (a)(6). The failure of the court to comply with Subsection (a)(6) is not a ground for the defendant to set aside the conviction, sentence, or plea.

(i) Notwithstanding this article, a court shall not order the state or any of its prosecuting attorneys to participate in mediation, dispute resolution, arbitration, or other similar procedures in relation to a criminal prosecution unless upon written consent of the state.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1973, 63rd Leg., p. 969, ch. 399, Sec. 2(A), eff. Jan. 1, 1974; Acts 1975, 64th Leg., p. 909, ch. 341, Sec. 3, eff. June 19, 1975; Acts 1977, 65th Leg., p. 748, ch. 280, Sec. 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1108, ch. 524, Sec. 1, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1160, ch. 561, Sec. 1, eff. Sept. 1, 1979; Acts 1985, 69th Leg., p. 5065, ch. 671, Sec. 1, eff. June 14, 1985; Acts 1985, 69th Leg., ch. 685, Sec. 8(a), eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 443, Sec. 1, eff. Aug. 1, 1987. Subsecs. (e), (f) added by Acts 1991, 72nd Leg., ch. 202, Sec. 1, eff. Sept. 1, 1991; Subsec. (g) added by Acts 1997, 75th Leg., ch. 670, Sec. 4, eff. Sept. 1, 1997; Subsec. (a) amended by Acts 1999,

76th Leg., ch. 1415, Sec. 1, eff. Sept. 1, 1999; Subsec. (h) added by Acts 1999, 76th Leg., ch. 425, Sec. 1, eff. Aug. 30, 1999; added by Acts 1999, 76th Leg., ch. 1415, Sec. 1, eff. Sept. 1, 1999; Subsec. (i) relettered from subsec. (h) by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(8), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 1.03, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 125 (S.B. 1470), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1379 (S.B. 1236), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1073 (S.B. 1010), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 1017 (H.B. 1507), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 185 (H.B. 1996), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.09, eff. January 1, 2021.

Art. 26.14. JURY ON PLEA OF GUILTY. Where a defendant in a case of felony persists in pleading guilty or in entering a plea of nolo contendere, if the punishment is not absolutely fixed by law, a jury shall be impaneled to assess the punishment and evidence may be heard to enable them to decide thereupon, unless the defendant in accordance with Articles 1.13 or 37.07 shall have waived his right to trial by jury.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 26.15. CORRECTING NAME. In any case, the same proceedings shall be had with respect to the name of the defendant and the correction of the indictment or information as provided with respect to the same in capital cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.