

BILL ANALYSIS

C.S.H.B. 615

By: Keel

Criminal Jurisprudence

Committee Report (Substituted)

BACKGROUND AND PURPOSE

The appointment of attorneys to represent indigent capital murder defendants in post conviction writs of habeas corpus calls for careful consideration of the attorneys' experience and competence. The Task Force on Indigent Defense is in a much better position to gauge the quality, availability and effectiveness of attorneys eligible to be appointed on such matters than a statewide appellate court. Under current law, the Court of Criminal Appeals adopts rules for convicting courts to follow when appointing attorneys and approves appointments made by such courts. C.S.H.B. 615 would transfer the obligation to adopt standards for the appointment of attorneys for such proceedings from the Court of Criminal Appeals to the task force.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 615 amends the Criminal Procedure and Government codes relating to the appointment of counsel for an indigent applicant for a writ of habeas corpus in a capital case. The bill transfers the obligation to adopt standards for the appointment from the Court of Criminal Appeals to the Task Force on Indigent Defense. The standards must require, among other things, that the attorney have recent and relevant experience, have participated in continuing legal education courses, and not have been found to have rendered ineffective assistance of counsel. Furthermore, the task force may maintain a list of attorneys qualified for appointment and make the list available to the convicting court to assist with the appointment. The court may not appoint an attorney who represented the applicant at trial or on direct appeal unless both the attorney and the applicant request the appointment and there is good cause to do so.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by requiring the Task Force on Indigent Defense, rather than the local selection committees, to adopt standards for the appointment of counsel for an indigent applicant for a writ of habeas corpus in a capital case. The substitute also sets forth criteria which must be included in the standards and includes provisions governing the appointment of an attorney who also represented the applicant at trial or on direct appeal.