

BILL ANALYSIS

C.S.H.B. 1701
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, each year county officials are required to prepare, in the manner prescribed by the Office of Court Administration (OCA), a copy of all rules and forms that describe the procedures used to provide indigent defendants with counsel. After compiling this information, counties must submit this information to the OCA. The Task Force on Indigent Defense is in a better position to gauge how the information should be presented and compiled. C.S.H.B. 1701 transfers these duties from the OCA to the task force and requires this information to be compiled every other year, rather than yearly. The bill also allows a retired district judge to serve on the task force and enhances the requirements for counsel representing indigent defendants in capital cases.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority previously granted to the Court of Criminal Appeals has been modified in SECTION 5 (Article 11.071, Code of Criminal Procedure) of this bill.

ANALYSIS

C.S.H.B. 1701 requires the Task Force on Indigent Defense to prescribe the manner and form in which counties report their indigent defense rules and procedures to the Office of Court Administration. Furthermore, counties are required to include information detailing if the rules or procedures have changed since the last submission, and if so, how they have changed.

The bill also amends the Government Code to allow a retired district judge to serve on the task force. The position would still need to be appointed by the governor.

The bill also amends the Code of Criminal Procedure to ensure that an attorney appointed as lead counsel to a death penalty case have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any case. This also extends to an attorney appointed as lead appellate counsel in the direct appeal of a death penalty case.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by allowing a retired district judge to serve on the task force and enhancing the requirements for counsel representing indigent defendants in capital cases.