

By: Hughes

H.B. No. 1276

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of counsel for indigent defendants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1.051, Code of Criminal Procedure, is amended by amending Subsections (c) and (j) to read as follows:

(c) An indigent defendant is entitled to have an attorney appointed to represent him in any adversary judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation. Except as otherwise provided by this subsection, if an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have been initiated against the defendant, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county shall appoint counsel as soon as possible, but not later than the end of the third working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. In a county with a population of 250,000 or more, the court or the courts' designee shall appoint counsel as required by this subsection as soon as possible, but not later than the end of the first working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. In a county with a population of less than 100,000, the court or the courts' designee

1 shall appoint counsel as required by this subsection not later than  
2 the end of the seventh working day after the date on which the court  
3 or the courts' designee receives the defendant's request for  
4 appointment of counsel if the defendant is charged with:

5 (1) a Class B misdemeanor; or

6 (2) a Class C misdemeanor with respect to which the  
7 court concluded that the interests of justice required  
8 representation.

9 (j) Notwithstanding any other provision of this article  
10 [~~section~~], if an indigent defendant is released from custody prior  
11 to the appointment of counsel under this article [~~section~~],  
12 appointment of counsel is not required until the defendant's first  
13 court appearance after [~~or when~~] adversarial judicial proceedings  
14 are initiated[~~, whichever comes first~~].

15 SECTION 2. The change in law made by this Act applies only  
16 to a defendant's request for appointment of counsel made on or after  
17 the effective date of this Act.

18 SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2005.