

By: Keel

H.B. No. 1701

A BILL TO BE ENTITLED

AN ACT

relating to the defense of indigent persons accused of a criminal offense.

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

SECTION 1. Section 71.0351, Government Code, is amended to read as follows:

Sec. 71.0351. INDIGENT DEFENSE INFORMATION. (a) In each county, not [Not] later than November [January] 1 of each odd-numbered year and in the form and manner prescribed by the Task Force on Indigent Defense, the following information shall be prepared and provided to the Office of Court Administration of the Texas Judicial System:

(1) [~~, in each county,~~] a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any revisions to rules or forms previously submitted to the office of court administration under this section;  
or

(3) verification that rules and forms previously submitted to the office of court administration under this section still remain in effect~~[, shall be prepared and sent to the Office of Court Administration of the Texas Judicial System in the form and~~

1 ~~manner prescribed by the office].~~

2 (b) Except as provided by Subsection (c):

3 (1) [~~(b)~~], the local administrative district judge in  
4 each county, or the person designated by the judge, shall perform  
5 the action required by Subsection (a) with respect to [~~prepare and~~  
6 ~~send to the office of court administration a copy of]~~ all rules and  
7 forms adopted by the judges of the district courts trying felony  
8 cases in the county; and

9 (2) [~~. Except as provided by Subsection (b)~~], the  
10 local administrative statutory county court judge in each county,  
11 or the person designated by the judge, shall perform the action  
12 required by Subsection (a) with respect to [~~prepare and send to the~~  
13 ~~office of court administration a copy of]~~ all rules and forms  
14 adopted by the judges of the county courts and statutory county  
15 courts trying misdemeanor cases in the county.

16 (c) [~~(b)~~] If the judges of two or more levels of courts  
17 described by Subsection (b) adopt the same formal and informal  
18 rules and forms [~~as described by Subsection (a)~~], the local  
19 administrative judge serving the courts having jurisdiction over  
20 offenses with the highest classification of punishment, or the  
21 person designated by the judge, shall perform the action required  
22 by Subsection (a) [~~prepare and send to the Office of Court~~  
23 ~~Administration of the Texas Judicial System a copy of the rules and~~  
24 ~~forms]~~.

25 (d) The chair of the juvenile board in each county, or the  
26 person designated by the chair, shall perform the action required  
27 by Subsection (a) with respect to all rules and forms adopted by the

1 juvenile board.

2       (e) [~~(c)~~] In each county, the county auditor, or the person  
3 designated by the commissioners court if the county does not have a  
4 county auditor, shall prepare and send to the Office of Court  
5 Administration of the Texas Judicial System in the form and manner  
6 prescribed by the Task Force on Indigent Defense [~~office~~] and on a  
7 monthly, quarterly, or annual basis, with respect to legal services  
8 provided in the county to indigent defendants during each fiscal  
9 year, information showing the total amount expended by the county  
10 to provide indigent defense services and an analysis of the amount  
11 expended by the county:

12               (1) in each district, county, statutory county, and  
13 appellate court;

14               (2) in cases for which a private attorney is appointed  
15 for an indigent defendant;

16               (3) in cases for which a public defender is appointed  
17 for an indigent defendant;

18               (4) in cases for which counsel is appointed for an  
19 indigent juvenile under Section 51.10(f), Family Code; and

20               (5) for investigation expenses, expert witness  
21 expenses, or other litigation expenses.

22       (f) [~~(d)~~] As a duty of office, each district and county  
23 clerk shall cooperate with the county auditor or the person  
24 designated by the commissioners court and the commissioners court  
25 in retrieving information required to be sent to the Office of Court  
26 Administration of the Texas Judicial System under this section and  
27 under a reporting plan developed by the Task Force on Indigent

1 Defense under Section 71.061(a).

2 ~~[(c) On receipt of information required under this section,~~  
3 ~~the Office of Court Administration of the Texas Judicial System~~  
4 ~~shall forward the information to the Task Force on Indigent~~  
5 ~~Defense.]~~

6 SECTION 2. Section 71.053(b), Government Code, is amended  
7 to read as follows:

8 (b) The members serve staggered terms of two years, with two  
9 members' terms expiring February 1 of each odd-numbered year and  
10 three ~~[two]~~ members' terms expiring February 1 of each  
11 even-numbered year.

12 SECTION 3. Section 71.059(b), Government Code, is amended  
13 to read as follows:

14 (b) The State Grants Team of the Governor's Office of  
15 Budget, ~~[and]~~ Planning, and Policy may assist the Task Force on  
16 Indigent Defense in identifying grants and other resources  
17 available for use by the task force in performing its duties under  
18 this subchapter.

19 SECTION 4. Section 71.061(b), Government Code, is amended  
20 to read as follows:

21 (b) The Task Force on Indigent Defense shall annually submit  
22 to the governor, lieutenant governor, speaker of the house of  
23 representatives, and council and shall publish in written and  
24 electronic form a report:

25 (1) containing the information submitted ~~[forwarded~~  
26 ~~to the task force from the Office of Court Administration of the~~  
27 ~~Texas Judicial System]~~ under Section 71.0351 ~~[71.0351(e)]~~; and

1 (2) regarding:

2 (A) the quality of legal representation provided  
3 by counsel appointed to represent indigent defendants;

4 (B) current indigent defense practices in the  
5 state as compared to state and national standards;

6 (C) efforts made by the task force to improve  
7 indigent defense practices in the state; and

8 (D) recommendations made by the task force for  
9 improving indigent defense practices in the state.

10 SECTION 5. Article 26.044(a), Code of Criminal Procedure,  
11 is amended to read as follows:

12 (a) In this chapter:

13 (1) "Governmental entity" includes a county, a group  
14 of counties, a branch or agency of a county, an administrative  
15 judicial region created by Section 74.042, Government Code, and any  
16 entity created under the Interlocal Cooperation Act as permitted by  
17 Chapter 791, Government Code.

18 (2) "Public[~~, "public~~] defender" means a governmental  
19 entity or nonprofit corporation:

20 (A) [~~(1)~~] operating under a written agreement  
21 with a governmental entity, other than an individual judge or  
22 court;

23 (B) [~~(2)~~] using public funds; and

24 (C) [~~(3)~~] providing legal representation and  
25 services to indigent defendants accused of a crime or juvenile  
26 offense, as those terms are defined by Section 71.001, Government  
27 Code.

1 SECTION 6. This Act takes effect September 1, 2005.