

SENATE AMENDMENTS

2nd Printing

By: Pena

H.B. No. 1265

A BILL TO BE ENTITLED

AN ACT

relating to the operations of the Task Force on Indigent Defense.

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

SECTION 1. Section 71.001(1), Government Code, is amended to read as follows:

(1) "Assigned [~~Ad hoc assigned~~] counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

SECTION 2. Section 71.055(a), Government Code, is amended to read as follows:

(a) The Task Force on Indigent Defense shall meet at least four times each year [~~quarterly~~] and at such other times as it deems necessary or convenient to perform its duties.

SECTION 3. Section 71.060(a), Government Code, is amended to read as follows:

(a) The Task Force on Indigent Defense shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to

1 represent indigent defendants;

2 (2) qualification standards under which attorneys may
3 qualify for appointment to represent indigent defendants,
4 including:

5 (A) qualifications commensurate with the
6 seriousness of the nature of the proceeding;

7 (B) qualifications appropriate for
8 representation of mentally ill defendants and noncitizen
9 defendants;

10 (C) successful completion of relevant continuing
11 legal education programs approved by the council; and

12 (D) testing and certification standards;

13 (3) standards for ensuring appropriate appointed
14 caseloads for counsel appointed to represent indigent defendants;

15 (4) standards for determining whether a person accused
16 of a crime or juvenile offense is indigent;

17 (5) policies and standards governing the organization
18 and operation of an ~~ad hoc~~ assigned counsel program;

19 (6) policies and standards governing the organization
20 and operation of a public defender consistent with recognized
21 national policies and standards;

22 (7) standards for providing indigent defense services
23 under a contract defender program consistent with recognized
24 national policies and standards;

25 (8) standards governing the reasonable compensation
26 of counsel appointed to represent indigent defendants;

27 (9) standards governing the availability and

1 reasonable compensation of providers of indigent defense support
2 services for counsel appointed to represent indigent defendants;

3 (10) standards governing the operation of a legal
4 clinic or program that provides legal services to indigent
5 defendants and is sponsored by a law school approved by the supreme
6 court;

7 (11) policies and standards governing the appointment
8 of attorneys to represent children in proceedings under Title 3,
9 Family Code; and

10 (12) other policies and standards for providing
11 indigent defense services as determined by the task force to be
12 appropriate.

13 SECTION 4. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Atty Gen
Secretary of the Senate

By: *Relig*

H.B. No. 1265

Substitute the following for H.B. No. 1265:

By: *John Whitmore*

C.S. H.B. No. 1265

A BILL TO BE ENTITLED

AN ACT

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relating to the operations of the Task Force on Indigent Defense and a legal services fee for indigent persons paid by members of the state bar.

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

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SECTION 1. Section 71.001(1), Government Code, is amended to read as follows:

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(1) "Assigned [~~Ad hoc assigned~~] counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

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SECTION 2. Section 71.055(a), Government Code, is amended to read as follows:

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(a) The Task Force on Indigent Defense shall meet at least four times each year [~~quarterly~~] and at such other times as it deems necessary or convenient to perform its duties.

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SECTION 3. Section 71.060(a), Government Code, is amended to read as follows:

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(a) The Task Force on Indigent Defense shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may

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2 (1) performance standards for counsel appointed to
3 represent indigent defendants;

4 (2) qualification standards under which attorneys may
5 qualify for appointment to represent indigent defendants,
6 including:

7 (A) qualifications commensurate with the
8 seriousness of the nature of the proceeding;

9 (B) qualifications appropriate for
10 representation of mentally ill defendants and noncitizen
11 defendants;

12 (C) successful completion of relevant continuing
13 legal education programs approved by the council; and

14 (D) testing and certification standards;

15 (3) standards for ensuring appropriate appointed
16 caseloads for counsel appointed to represent indigent defendants;

17 (4) standards for determining whether a person accused
18 of a crime or juvenile offense is indigent;

19 (5) policies and standards governing the organization
20 and operation of an [~~ad hoc~~] assigned counsel program;

21 (6) policies and standards governing the organization
22 and operation of a public defender consistent with recognized
23 national policies and standards;

24 (7) standards for providing indigent defense services
25 under a contract defender program consistent with recognized
26 national policies and standards;

27 (8) standards governing the reasonable compensation

1 of counsel appointed to represent indigent defendants;

2 (9) standards governing the availability and
3 reasonable compensation of providers of indigent defense support
4 services for counsel appointed to represent indigent defendants;

5 (10) standards governing the operation of a legal
6 clinic or program that provides legal services to indigent
7 defendants and is sponsored by a law school approved by the supreme
8 court;

9 (11) policies and standards governing the appointment
10 of attorneys to represent children in proceedings under Title 3,
11 Family Code; and

12 (12) other policies and standards for providing
13 indigent defense services as determined by the task force to be
14 appropriate.

15 SECTION 4. Section 81.054(j), Government Code, is amended
16 to read as follows:

17 (j) The supreme court shall set an additional legal services
18 fee in an amount of \$65 to be paid annually by each active member of
19 the state bar except as provided by Subsection (k). Section 81.024
20 does not apply to a fee set under this subsection. [~~This subsection
21 expires on September 1, 2007.~~]

22 SECTION 5. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1265** by Pena (Relating to the operations of the Task Force on Indigent Defense and a legal services fee for indigent persons paid by members of the state bar.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1265, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>JUDICIAL FUND</i> 573	Probable Revenue Gain/(Loss) from <i>FAIR DEFENSE</i> 5073
2008	\$1,908,000	\$1,908,000
2009	\$1,908,000	\$1,908,000
2010	\$1,908,000	\$1,908,000
2011	\$1,908,000	\$1,908,000
2012	\$1,908,000	\$1,908,000

Fiscal Analysis

The bill would make minor amendments the Government Code relating to the operations of the Task Force on Indigent Defense, for which no fiscal implication to the State is anticipated. The bill would amend Government Code § 81.054(j) to continue the collection of a \$65 legal services fee paid by Texas attorneys each year as part of bar dues by striking the expiration clause for this subsection. The fee would otherwise expire on September 1, 2007. Half the fees collected go to the Fair Defense Account for use by the Task Force on Indigent Defense while the other half goes to the Judicial Fund to support civil legal services for the indigent.

The bill would take effect September 1, 2007.

Methodology

Estimates for the continuation of this fee are based on the FY 2007 estimates for the legal services fee included in the Comptroller's *2008-09 Biennial Revenue Estimate*.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ES, ZS, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1265 by Pena (Relating to the operations of the Task Force on Indigent Defense.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would make minor amendments the Government Code relating to the operations of the Task Force on Indigent Defense, and no fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ES, ZS, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1265 by Pena (Relating to the operations of the Task Force on Indigent Defense.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would make minor amendments the Government Code relating to the operations of the Task Force on Indigent Defense, and no fiscal implication to the State is anticipated. The bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ES, ZS, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1265 by Pena (Relating to the operations of the Task Force on Indigent Defense and a legal services fee for indigent persons paid by members of the state bar.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1265 by Pena (Relating to the operations of the Task Force on Indigent Defense.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

February 23, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1265 by Pena (Relating to the operations of the Task Force on Indigent Defense.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

