

1-1 By: Gallego (Senate Sponsor - Ellis) H.B. No. 1754
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 27, 2011, read first time and referred to Committee on
1-4 Criminal Justice; May 12, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 12, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1754 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the reorganization of powers and duties among agencies
1-11 in this state that provide representation to indigent defendants in
1-12 criminal cases and to the reorganization of funding sources for
1-13 indigent defense.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subtitle F, Title 2, Government Code, is amended
1-16 by adding Chapter 79 to read as follows:

1-17 CHAPTER 79. TEXAS INDIGENT DEFENSE COMMISSION

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 79.001. DEFINITIONS. In this chapter:

1-20 (1) "Assigned counsel program" means a system under
1-21 which private attorneys, acting as independent contractors and
1-22 compensated with public funds, are individually appointed to
1-23 provide legal representation and services to a particular indigent
1-24 defendant accused of a crime or juvenile offense.

1-25 (2) "Board" means the governing board of the Texas
1-26 Indigent Defense Commission.

1-27 (3) "Commission" means the agency known as the Texas
1-28 Indigent Defense Commission.

1-29 (4) "Contract defender program" means a system under
1-30 which private attorneys, acting as independent contractors and
1-31 compensated with public funds, are engaged to provide legal
1-32 representation and services to a group of unspecified indigent
1-33 defendants who appear before a particular court or group of courts.

1-34 (5) "Council" means the Texas Judicial Council.

1-35 (6) "Crime" means:

1-36 (A) a misdemeanor punishable by confinement; or

1-37 (B) a felony.

1-38 (7) "Defendant" means a person accused of a crime or a
1-39 juvenile offense.

1-40 (8) "Executive director" means the executive director
1-41 of the Texas Indigent Defense Commission.

1-42 (9) "Indigent defense support services" means
1-43 criminal defense services that:

1-44 (A) are provided by licensed investigators,
1-45 experts, or other similar specialists, including forensic experts
1-46 and mental health experts; and

1-47 (B) are reasonable and necessary for appointed
1-48 counsel to provide adequate representation to indigent defendants.

1-49 (10) "Juvenile offense" means conduct committed by a
1-50 person while younger than 17 years of age that constitutes:

1-51 (A) a misdemeanor punishable by confinement; or

1-52 (B) a felony.

1-53 (11) "Managed assigned counsel program" has the
1-54 meaning assigned by Article 26.047, Code of Criminal Procedure.

1-55 (12) "Office of capital writs" means the office of
1-56 capital writs established under Subchapter B, Chapter 78.

1-57 (13) "Public defender's office" has the meaning
1-58 assigned by Article 26.044(a), Code of Criminal Procedure.

1-59 Sec. 79.002. ESTABLISHMENT OF COMMISSION. (a) The Texas
1-60 Indigent Defense Commission is established. The commission is an
1-61 agency in the judicial branch of this state.

1-62 (b) The commission operates under the direction and
1-63 supervision of a governing board.

2-1 Sec. 79.003. SUNSET PROVISION. The commission is subject
2-2 to Chapter 325 (Texas Sunset Act). Unless continued in existence as
2-3 provided by that chapter, the commission is abolished and this
2-4 chapter expires September 1, 2023.

2-5 [Sections 79.004-79.010 reserved for expansion]

2-6 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

2-7 Sec. 79.011. ESTABLISHMENT OF BOARD; COMPOSITION. (a) The
2-8 commission is governed by a board consisting of eight ex officio
2-9 members and five appointive members.

2-10 (b) Except as provided by Section 79.038, the board shall
2-11 exercise the powers and perform the duties under this chapter
2-12 independently of the council.

2-13 Sec. 79.012. EXECUTIVE DIRECTOR. (a) The executive
2-14 director is appointed by the board.

2-15 (b) The executive director:

2-16 (1) must be a licensed attorney;

2-17 (2) must demonstrate an interest in the standards for
2-18 and provision of criminal defense services to indigent individuals;

2-19 (3) may not engage in the private practice of law; and

2-20 (4) may not accept money, property, or any other thing
2-21 of value not authorized by law for services rendered under this
2-22 chapter.

2-23 Sec. 79.013. EX OFFICIO MEMBERS. The ex officio members of
2-24 the board are:

2-25 (1) the following six members of the council:

2-26 (A) the chief justice of the supreme court;

2-27 (B) the presiding judge of the court of criminal
2-28 appeals;

2-29 (C) one of the members of the senate serving on
2-30 the council who is designated by the lieutenant governor;

2-31 (D) the member of the house of representatives
2-32 appointed by the speaker of the house;

2-33 (E) one of the courts of appeals justices serving
2-34 on the council who is designated by the governor; and

2-35 (F) one of the county court or statutory county
2-36 court judges serving on the council who is designated by the
2-37 governor or, if a county court or statutory county court judge is
2-38 not serving on the council, one of the statutory probate court
2-39 judges serving on the council who is designated by the governor;

2-40 (2) one other member of the senate appointed by the
2-41 lieutenant governor; and

2-42 (3) the chair of the House Criminal Jurisprudence
2-43 Committee.

2-44 Sec. 79.014. APPOINTMENTS. (a) The governor shall appoint
2-45 with the advice and consent of the senate five members of the board
2-46 as follows:

2-47 (1) one member who is a district judge serving as a
2-48 presiding judge of an administrative judicial region;

2-49 (2) one member who is a judge of a constitutional
2-50 county court or who is a county commissioner;

2-51 (3) one member who is a practicing criminal defense
2-52 attorney;

2-53 (4) one member who is a chief public defender in this
2-54 state or the chief public defender's designee, who must be an
2-55 attorney employed by the public defender's office; and

2-56 (5) one member who is a judge of a constitutional
2-57 county court or who is a county commissioner of a county with a
2-58 population of 250,000 or more.

2-59 (b) The board members serve staggered terms of two years,
2-60 with two members' terms expiring February 1 of each odd-numbered
2-61 year and three members' terms expiring February 1 of each
2-62 even-numbered year.

2-63 (c) In making appointments to the board, the governor shall
2-64 attempt to reflect the geographic and demographic diversity of the
2-65 state.

2-66 (d) A person may not be appointed to the board if the person
2-67 is required to register as a lobbyist under Chapter 305 because of
2-68 the person's activities for compensation on behalf of a profession
2-69 related to the operation of the commission or the council.

3-1 Sec. 79.015. PRESIDING OFFICER. The board shall select a
 3-2 chair from among its members.

3-3 Sec. 79.016. DISCLOSURE REQUIRED. (a) A board member who is
 3-4 a chief public defender or who is an attorney employed by a public
 3-5 defender's office in a county that applies for funds under Section
 3-6 79.037 shall disclose that fact before a vote by the board regarding
 3-7 an award of funds to that county and may not participate in such a
 3-8 vote.

3-9 (b) A board member's disclosure under Subsection (a) must be
 3-10 entered into the minutes of the board meeting at which the
 3-11 disclosure is made or reported, as applicable.

3-12 (c) The commission may not award funds under Section 79.037
 3-13 to a county served by a chief public defender or other attorney who
 3-14 fails to make a disclosure to the board as required by Subsection
 3-15 (a).

3-16 Sec. 79.017. VACANCIES. A vacancy on the board must be
 3-17 filled for the unexpired term in the same manner as the original
 3-18 appointment.

3-19 Sec. 79.018. MEETINGS; QUORUM; VOTING. (a) The board shall
 3-20 meet at least four times each year and at such other times as it
 3-21 considers necessary or convenient to perform its duties.

3-22 (b) Six members of the board constitute a quorum for
 3-23 purposes of transacting the business of the board. The board may
 3-24 act only on the concurrence of five board members or a majority of
 3-25 the board members present, whichever number is greater. The board
 3-26 may adopt policies and standards under Section 79.034 only on the
 3-27 concurrence of seven board members.

3-28 (c) Except as provided by Section 79.016, a board member is
 3-29 entitled to vote on any matter before the board, except as otherwise
 3-30 provided by rules adopted by the board.

3-31 Sec. 79.019. COMPENSATION. A board member may not receive
 3-32 compensation for services on the board but is entitled to be
 3-33 reimbursed for actual and necessary expenses incurred in
 3-34 discharging board duties. The expenses are paid from funds
 3-35 appropriated to the board.

3-36 Sec. 79.020. IMMUNITY FROM LIABILITY. A member of the board
 3-37 performing duties on behalf of the board is not liable for damages
 3-38 arising from an act or omission within the scope of those duties.

3-39 Sec. 79.021. RULES. The board shall adopt rules as
 3-40 necessary to implement this chapter.

3-41 [Sections 79.022-79.030 reserved for expansion]

3-42 SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

3-43 Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense
 3-44 account is an account in the general revenue fund that may be
 3-45 appropriated only to:

3-46 (1) the commission for the purpose of implementing
 3-47 this chapter; and

3-48 (2) the office of capital writs for the purpose of
 3-49 implementing Subchapter B, Chapter 78.

3-50 Sec. 79.032. ACCEPTANCE OF GIFTS, GRANTS, AND OTHER FUNDS;
 3-51 STATE GRANTS TEAM. (a) The commission may accept gifts, grants,
 3-52 and other funds from any public or private source to pay expenses
 3-53 incurred in performing its duties under this chapter.

3-54 (b) The State Grants Team of the Governor's Office of
 3-55 Budget, Planning, and Policy may assist the commission in
 3-56 identifying grants and other resources available for use by the
 3-57 commission in performing its duties under this chapter.

3-58 Sec. 79.033. LEGISLATIVE APPROPRIATIONS REQUEST. The
 3-59 board, in accordance with the rules and procedures of the
 3-60 Legislative Budget Board, shall prepare, approve, and submit a
 3-61 legislative appropriations request.

3-62 Sec. 79.034. POLICIES AND STANDARDS. (a) The commission
 3-63 shall develop policies and standards for providing legal
 3-64 representation and other defense services to indigent defendants at
 3-65 trial, on appeal, and in postconviction proceedings. The policies
 3-66 and standards may include:

3-67 (1) performance standards for counsel appointed to
 3-68 represent indigent defendants;

3-69 (2) qualification standards under which attorneys may

4-1 qualify for appointment to represent indigent defendants,
4-2 including:
4-3 (A) qualifications commensurate with the
4-4 seriousness of the nature of the proceeding;
4-5 (B) qualifications appropriate for
4-6 representation of mentally ill defendants and noncitizen
4-7 defendants;
4-8 (C) successful completion of relevant continuing
4-9 legal education programs approved by the council; and
4-10 (D) testing and certification standards;
4-11 (3) standards for ensuring appropriate appointed
4-12 caseloads for counsel appointed to represent indigent defendants;
4-13 (4) standards for determining whether a person accused
4-14 of a crime or juvenile offense is indigent;
4-15 (5) policies and standards governing the organization
4-16 and operation of an assigned counsel program;
4-17 (6) policies and standards governing the organization
4-18 and operation of a public defender's office consistent with
4-19 recognized national policies and standards;
4-20 (7) standards for providing indigent defense services
4-21 under a contract defender program consistent with recognized
4-22 national policies and standards;
4-23 (8) standards governing the reasonable compensation
4-24 of counsel appointed to represent indigent defendants;
4-25 (9) standards governing the availability and
4-26 reasonable compensation of providers of indigent defense support
4-27 services for counsel appointed to represent indigent defendants;
4-28 (10) standards governing the operation of a legal
4-29 clinic or program that provides legal services to indigent
4-30 defendants and is sponsored by a law school approved by the supreme
4-31 court;
4-32 (11) policies and standards governing the appointment
4-33 of attorneys to represent children in proceedings under Title 3,
4-34 Family Code;
4-35 (12) policies and standards governing the
4-36 organization and operation of a managed assigned counsel program
4-37 consistent with nationally recognized policies and standards; and
4-38 (13) other policies and standards for providing
4-39 indigent defense services as determined by the commission to be
4-40 appropriate.
4-41 (b) The commission shall submit its proposed policies and
4-42 standards developed under Subsection (a) to the board for adoption.
4-43 The board shall adopt the proposed policies and standards as
4-44 appropriate.
4-45 (c) Any qualification standards adopted by the board under
4-46 Subsection (b) that relate to the appointment of counsel in a death
4-47 penalty case must be consistent with the standards specified under
4-48 Article 26.052(d), Code of Criminal Procedure. An attorney who is
4-49 identified by the commission as not satisfying performance or
4-50 qualification standards adopted by the board under Subsection (b)
4-51 may not accept an appointment in a capital case.
4-52 Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS.
4-53 (a) The commission shall develop a plan that establishes statewide
4-54 requirements for counties relating to reporting indigent defense
4-55 information. The plan must include provisions designed to reduce
4-56 redundant reporting by counties and provisions that take into
4-57 consideration the costs to counties of implementing the plan
4-58 statewide. The commission shall use the information reported by a
4-59 county to monitor the effectiveness of the county's indigent
4-60 defense policies, standards, and procedures and to ensure
4-61 compliance by the county with the requirements of state law
4-62 relating to indigent defense. The commission may revise the plan as
4-63 necessary to improve monitoring of indigent defense policies,
4-64 standards, and procedures in this state.
4-65 (b) The commission shall annually submit to the governor,
4-66 lieutenant governor, speaker of the house of representatives, and
4-67 council and shall publish in written and electronic form a report:
4-68 (1) containing any information submitted to the
4-69 commission by a county under Section 79.036; and

5-1 (2) regarding:

5-2 (A) the quality of legal representation provided

5-3 by counsel appointed to represent indigent defendants;

5-4 (B) current indigent defense practices in the

5-5 state as compared to state and national standards;

5-6 (C) efforts made by the commission to improve

5-7 indigent defense practices in the state; and

5-8 (D) recommendations made by the commission for

5-9 improving indigent defense practices in the state.

5-10 (c) The commission shall annually submit to the Legislative

5-11 Budget Board and council and shall publish in written and

5-12 electronic form a detailed report of all expenditures made under

5-13 this subchapter, including distributions under Section 79.037.

5-14 (d) The commission may issue other reports relating to

5-15 indigent defense as determined to be appropriate by the commission.

5-16 Sec. 79.036. INDIGENT DEFENSE INFORMATION. (a) In each

5-17 county, not later than November 1 of each odd-numbered year and in

5-18 the form and manner prescribed by the commission, the following

5-19 information shall be prepared and provided to the commission:

5-20 (1) a copy of all formal and informal rules and forms

5-21 that describe the procedures used in the county to provide indigent

5-22 defendants with counsel in accordance with the Code of Criminal

5-23 Procedure, including the schedule of fees required under Article

5-24 26.05 of that code;

5-25 (2) any revisions to rules or forms previously

5-26 submitted under this section; or

5-27 (3) verification that rules and forms previously

5-28 submitted under this section still remain in effect.

5-29 (b) Except as provided by Subsection (c):

5-30 (1) the local administrative district judge in each

5-31 county, or the person designated by the judge, shall perform the

5-32 action required by Subsection (a) with respect to all rules and

5-33 forms adopted by the judges of the district courts trying felony

5-34 cases in the county; and

5-35 (2) the local administrative statutory county court

5-36 judge in each county, or the person designated by the judge, shall

5-37 perform the action required by Subsection (a) with respect to all

5-38 rules and forms adopted by the judges of the county courts and

5-39 statutory county courts trying misdemeanor cases in the county.

5-40 (c) If the judges of two or more levels of courts described

5-41 by Subsection (b) adopt the same formal and informal rules and

5-42 forms, the local administrative judge serving the courts having

5-43 jurisdiction over offenses with the highest classification of

5-44 punishment, or the person designated by the judge, shall perform

5-45 the action required by Subsection (a).

5-46 (d) The chair of the juvenile board in each county, or the

5-47 person designated by the chair, shall perform the action required

5-48 by Subsection (a) with respect to all rules and forms adopted by the

5-49 juvenile board.

5-50 (e) In each county, the county auditor, or the person

5-51 designated by the commissioners court if the county does not have a

5-52 county auditor, shall prepare and send to the commission in the form

5-53 and manner prescribed by the commission and on a monthly,

5-54 quarterly, or annual basis, with respect to legal services provided

5-55 in the county to indigent defendants during each fiscal year,

5-56 information showing the total amount expended by the county to

5-57 provide indigent defense services and an analysis of the amount

5-58 expended by the county:

5-59 (1) in each district, county, statutory county, and

5-60 appellate court;

5-61 (2) in cases for which a private attorney is appointed

5-62 for an indigent defendant;

5-63 (3) in cases for which a public defender is appointed

5-64 for an indigent defendant;

5-65 (4) in cases for which counsel is appointed for an

5-66 indigent juvenile under Section 51.10(f), Family Code; and

5-67 (5) for investigation expenses, expert witness

5-68 expenses, or other litigation expenses.

5-69 (f) As a duty of office, each district and county clerk

6-1 shall cooperate with the county auditor or the person designated by
6-2 the commissioners court and the commissioners court in retrieving
6-3 information required to be sent to the commission under this
6-4 section.

6-5 Sec. 79.037. TECHNICAL SUPPORT; GRANTS. (a) The
6-6 commission shall:

6-7 (1) provide technical support to:

6-8 (A) assist counties in improving their indigent
6-9 defense systems; and

6-10 (B) promote compliance by counties with the
6-11 requirements of state law relating to indigent defense;

6-12 (2) to assist counties in providing indigent defense
6-13 services in the county, distribute in the form of grants any funds
6-14 appropriated for the purposes of this section; and

6-15 (3) monitor each county that receives a grant and
6-16 enforce compliance by the county with the conditions of the grant,
6-17 including enforcement by:

6-18 (A) withdrawing grant funds; or

6-19 (B) requiring reimbursement of grant funds by the
6-20 county.

6-21 (b) The commission shall distribute funds as required by
6-22 Subsection (a)(2) based on a county's compliance with standards
6-23 adopted by the board and the county's demonstrated commitment to
6-24 compliance with the requirements of state law relating to indigent
6-25 defense.

6-26 (c) The board shall adopt policies to ensure that funds
6-27 under Subsection (a)(2) are allocated and distributed to counties
6-28 in a fair manner.

6-29 (d) A county may not reduce the amount of funds provided for
6-30 indigent defense services in the county because of funds provided
6-31 by the commission under this section.

6-32 Sec. 79.038. ADMINISTRATIVE SUPPORT. The Office of Court
6-33 Administration of the Texas Judicial System shall provide
6-34 administrative support, including information technology services
6-35 support, to the commission as necessary to carry out this chapter.

6-36 SECTION 2. Section 71.001, Government Code, is amended to
6-37 read as follows:

6-38 Sec. 71.001. DEFINITIONS. In this chapter:

6-39 (1) [~~"Assigned counsel program" means a system under~~
6-40 ~~which private attorneys, acting as independent contractors and~~
6-41 ~~compensated with public funds, are individually appointed to~~
6-42 ~~provide legal representation and services to a particular indigent~~
6-43 ~~defendant accused of a crime or juvenile offense.~~

6-44 [(2)] "Chair" means the chair of the council.

6-45 (2) [(3)] [~~"Contract defender program" means a system~~
6-46 ~~under which private attorneys, acting as independent contractors~~
6-47 ~~and compensated with public funds, are engaged to provide legal~~
6-48 ~~representation and services to a group of unspecified indigent~~
6-49 ~~defendants who appear before a particular court or group of courts.~~

6-50 [(4)] "Council" means the Texas Judicial Council.

6-51 (3) [(5)] [~~"Crime" means:~~
6-52 [~~(A) a misdemeanor punishable by confinement, or~~
6-53 [~~(B) a felony.~~

6-54 [(6)] "Defendant" means a person accused of a crime or
6-55 [a] juvenile offense, as those terms are defined by Section 79.001.

6-56 (4) [(7)] [~~"Indigent defense support services" means~~
6-57 ~~criminal defense services that:~~

6-58 [~~(A) are provided by licensed investigators,~~
6-59 ~~experts, or other similar specialists, including forensic experts~~
6-60 ~~and mental health experts; and~~

6-61 [~~(B) are reasonable and necessary for appointed~~
6-62 ~~counsel to provide adequate representation to indigent defendants.~~

6-63 [(8)] [~~"Juvenile offense" means conduct committed by a~~
6-64 ~~person while younger than 17 years of age that constitutes:~~

6-65 [~~(A) a misdemeanor punishable by confinement, or~~
6-66 [~~(B) a felony.~~

6-67 [(9)] [~~"Public defender's office [defender]" has the~~
6-68 ~~meaning assigned by Article 26.044(a), Code of Criminal Procedure.~~

6-69 SECTION 3. Section 78.052(b), Government Code, is amended

7-1 to read as follows:

7-2 (b) The office shall receive funds for personnel costs and
7-3 expenses:

7-4 (1) as specified in the General Appropriations Act;
7-5 and

7-6 (2) from the fair defense account under Section 79.031
7-7 [~~71.058~~], in an amount sufficient to cover personnel costs and
7-8 expenses not covered by appropriations described by Subdivision
7-9 (1).

7-10 SECTION 4. Section 78.056(b), Government Code, is amended
7-11 to read as follows:

7-12 (b) The Office of Court Administration of the Texas Judicial
7-13 System and the Texas [~~Task Force on~~] Indigent Defense Commission
7-14 shall provide administrative support necessary under this section.

7-15 SECTION 5. Section 81.054(c), Government Code, is amended
7-16 to read as follows:

7-17 (c) Fees shall be paid to the clerk of the supreme court.
7-18 The clerk shall retain the fees, other than fees collected under
7-19 Subsection (j), until distributed to the state bar for expenditure
7-20 under the direction of the supreme court to administer this
7-21 chapter. The clerk shall retain the fees collected under
7-22 Subsection (j) until distribution is approved by an order of the
7-23 supreme court. In ordering that distribution, the supreme court
7-24 shall order that the fees collected under Subsection (j) be
7-25 remitted to the comptroller at least as frequently as quarterly.
7-26 The comptroller shall credit 50 percent of the remitted fees to the
7-27 credit of the judicial fund for programs approved by the supreme
7-28 court that provide basic civil legal services to the indigent and
7-29 shall credit the remaining 50 percent of the remitted fees to the
7-30 fair defense account in the general revenue fund which is
7-31 established under Section 79.031 [~~71.058~~], to be used, subject to
7-32 all requirements of Section 79.037 [~~71.062~~], for demonstration or
7-33 pilot projects that develop and promote best practices for the
7-34 efficient delivery of quality representation to indigent
7-35 defendants in criminal cases at trial, on appeal, and in
7-36 postconviction proceedings.

7-37 SECTION 6. Section 402.035(c), Government Code, is amended
7-38 to read as follows:

7-39 (c) The task force is composed of the following:

7-40 (1) the governor or the governor's designee;

7-41 (2) the attorney general or the attorney general's
7-42 designee;

7-43 (3) the executive commissioner of the Health and Human
7-44 Services Commission or the executive commissioner's designee;

7-45 (4) the commissioner of the Department of Family and
7-46 Protective Services or the commissioner's designee;

7-47 (5) the public safety director of the Department of
7-48 Public Safety or the director's designee;

7-49 (6) one representative from each of the following
7-50 state agencies, appointed by the chief administrative officer of
7-51 the respective agency:

7-52 (A) the Texas Workforce Commission;

7-53 (B) the Texas Department of Criminal Justice;

7-54 (C) the Texas Youth Commission;

7-55 (D) the Texas Juvenile Probation Commission; and

7-56 (E) the Texas Alcoholic Beverage Commission; and

7-57 (7) as appointed by the attorney general:

7-58 (A) a chief public defender employed by a public
7-59 defender's office, as defined by Article 26.044(a) [~~26.044~~], Code
7-60 of Criminal Procedure, or an attorney designated by the chief
7-61 public defender;

7-62 (B) an attorney representing the state;

7-63 (C) a representative of:

7-64 (i) a hotel and motel association;

7-65 (ii) a district and county attorneys
7-66 association; and

7-67 (iii) a state police association;

7-68 (D) representatives of sheriff's departments;

7-69 (E) representatives of local law enforcement

8-1 agencies affected by human trafficking; and
 8-2 (F) representatives of nongovernmental entities
 8-3 making comprehensive efforts to combat human trafficking by:
 8-4 (i) identifying human trafficking victims;
 8-5 (ii) providing legal or other services to
 8-6 human trafficking victims;
 8-7 (iii) participating in community outreach
 8-8 or public awareness efforts regarding human trafficking;
 8-9 (iv) providing or developing training
 8-10 regarding the prevention of human trafficking; or
 8-11 (v) engaging in other activities designed
 8-12 to prevent human trafficking.

8-13 SECTION 7. Article 26.04, Code of Criminal Procedure, is
 8-14 amended by amending Subsections (a), (d), and (f) and adding
 8-15 Subsection (f-1) to read as follows:

8-16 (a) The judges of the county courts, statutory county
 8-17 courts, and district courts trying criminal cases in each county,
 8-18 by local rule, shall adopt and publish written countywide
 8-19 procedures for timely and fairly appointing counsel for an indigent
 8-20 defendant in the county arrested for or charged with a misdemeanor
 8-21 punishable by confinement or a felony. The procedures must be
 8-22 consistent with this article and Articles 1.051, 15.17, 26.05, and
 8-23 26.052. A court shall appoint an attorney from a public appointment
 8-24 list using a system of rotation, unless the court appoints an
 8-25 attorney under Subsection (f), (f-1), (h), or (i). The court shall
 8-26 appoint attorneys from among the next five names on the appointment
 8-27 list in the order in which the attorneys' names appear on the list,
 8-28 unless the court makes a finding of good cause on the record for
 8-29 appointing an attorney out of order. An attorney who is not
 8-30 appointed in the order in which the attorney's name appears on the
 8-31 list shall remain next in order on the list.

8-32 (d) A public appointment list from which an attorney is
 8-33 appointed as required by Subsection (a) shall contain the names of
 8-34 qualified attorneys, each of whom:

- 8-35 (1) applies to be included on the list;
- 8-36 (2) meets the objective qualifications specified by
 8-37 the judges under Subsection (e);
- 8-38 (3) meets any applicable qualifications specified by
 8-39 the Texas [Task Force on] Indigent Defense Commission; and
- 8-40 (4) is approved by a majority of the judges who
 8-41 established the appointment list under Subsection (e).

8-42 (f) In a county in which a public defender's office is
 8-43 created or designated [defender is appointed] under Article 26.044,
 8-44 the court or the courts' designee may appoint that office [the
 8-45 public defender] to represent the defendant in accordance with
 8-46 guidelines established for the office [public defender].

8-47 (f-1) In a county in which a managed assigned counsel
 8-48 program is operated in accordance with Article 26.047, the managed
 8-49 assigned counsel program may appoint counsel to represent the
 8-50 defendant in accordance with the guidelines established for the
 8-51 program.

8-52 SECTION 8. The heading to Article 26.044, Code of Criminal
 8-53 Procedure, is amended to read as follows:

8-54 Art. 26.044. PUBLIC DEFENDER'S OFFICE [~~DEFENDER~~].

8-55 SECTION 9. Article 26.044, Code of Criminal Procedure, is
 8-56 amended by amending Subsections (a), (b), (c), (d), (e), (f), (g),
 8-57 (h), (i), (j), (k), (l), and (m) and adding Subsections (b-1) and
 8-58 (c-1) to read as follows:

8-59 (a) In this chapter:

8-60 (1) "Governmental entity" includes a county, a group
 8-61 of counties, a department [branch or agency] of a county, an
 8-62 administrative judicial region created by Section 74.042,
 8-63 Government Code, and any entity created under the Interlocal
 8-64 Cooperation Act as permitted by Chapter 791, Government Code.

8-65 (2) "Office of capital writs" means the office of
 8-66 capital writs established under Subchapter B, Chapter 78,
 8-67 Government Code.

8-68 (3) "Oversight board" means an oversight board
 8-69 established in accordance with Article 26.045.

9-1 (4) "Public defender's office [~~defender~~]" means an
 9-2 entity that:
 9-3 (A) is either:
 9-4 (i) a governmental entity; or
 9-5 (ii) a nonprofit corporation[+
 9-6 [~~(A)~~] operating under a written agreement with a
 9-7 governmental entity, other than an individual judge or court; and
 9-8 (B) uses [~~using~~] public funds to provide [~~, and~~
 9-9 [~~(C)~~ ~~providing~~] legal representation and
 9-10 services to indigent defendants accused of a crime or juvenile
 9-11 offense, as those terms are defined by Section 79.001 [~~71.001~~],
 9-12 Government Code.

9-13 [~~(3) "Office of capital writs" means the office of~~
 9-14 ~~capital writs established under Subchapter B, Chapter 78,~~
 9-15 ~~Government Code.]~~

9-16 (b) The commissioners court of any county, on written
 9-17 approval of a judge of a county court, statutory county court, or
 9-18 district court trying criminal cases or cases under Title 3, Family
 9-19 Code, in the county, may create a department of the county or by
 9-20 contract may designate a [~~appoint a governmental entity or~~
 9-21 ~~nonprofit corporation to serve as a public defender's office~~
 9-22 ~~defender].~~ The commissioners courts of two or more counties may
 9-23 enter into a written agreement to jointly create or designate
 9-24 [~~appoint~~] and jointly fund a regional public defender's office
 9-25 [~~defender].~~ In creating or designating [~~appointing~~] a public
 9-26 defender's office [~~defender~~] under this subsection, the
 9-27 commissioners court shall specify or the commissioners courts shall
 9-28 jointly specify, if creating or designating [~~appointing~~] a regional
 9-29 public defender's office [~~defender]:~~

9-30 (1) the duties of the public defender's office
 9-31 [~~defender];~~

9-32 (2) the types of cases to which the public defender's
 9-33 office [~~defender~~] may be appointed under Article 26.04(f) and the
 9-34 courts in which an attorney employed by the public defender's
 9-35 office [~~defender~~] may be required to appear;

9-36 (3) if the public defender's office is a nonprofit
 9-37 corporation, the term during which the contract designating the
 9-38 public defender's office is effective and how that contract may be
 9-39 renewed on expiration of the term [~~whether the public defender is~~
 9-40 ~~appointed to serve a term or serve at the pleasure of the~~
 9-41 ~~commissioners court or the commissioners courts]; and~~

9-42 (4) if an oversight board is established under Article
 9-43 26.045 for the public defender's office, the powers and duties that
 9-44 have been delegated to the oversight board [~~the public defender is~~
 9-45 ~~appointed to serve a term, the term of appointment and the~~
 9-46 ~~procedures for removing the public defender].~~

9-47 (b-1) The applicable commissioners court or commissioners
 9-48 courts shall require a written plan from a governmental entity
 9-49 -serving as a public defender's office.

9-50 (c) Before contracting with a nonprofit corporation to
 9-51 serve as [~~appointing~~] a public defender's office [~~defender~~] under
 9-52 Subsection (b), the commissioners court or commissioners courts
 9-53 shall solicit proposals for the public defender's office
 9-54 [~~defender].~~

9-55 (c-1) A written plan under Subsection (b-1) or a proposal
 9-56 under Subsection (c) must include:

9-57 (1) a budget for the public defender's office
 9-58 [~~defender], including salaries;~~

9-59 (2) a description of each personnel position,
 9-60 including the chief public defender position;

9-61 (3) the maximum allowable caseloads for each attorney
 9-62 employed by the public defender's office [~~proponent];~~

9-63 (4) provisions for personnel training;

9-64 (5) a description of anticipated overhead costs for
 9-65 the public defender's office [~~defender]; and~~

9-66 (6) policies regarding the use of licensed
 9-67 investigators and expert witnesses by the public defender's office;
 9-68 and

9-69 (7) a policy to ensure that the chief public defender

10-1 and other attorneys employed by the public defender's office do not
 10-2 provide representation to a defendant if doing so would create a
 10-3 conflict of interest that has not been waived by the client
 10-4 [proponent].

10-5 (d) After considering each proposal for the public
 10-6 defender's office [defender] submitted by a [governmental entity
 10-7 or] nonprofit corporation under Subsection (c), the commissioners
 10-8 court or commissioners courts shall select a proposal that
 10-9 reasonably demonstrates that the public defender's office
 10-10 [proponent] will provide adequate quality representation for
 10-11 indigent defendants in the county or counties.

10-12 (e) The total cost of the proposal under Subsection (c) may
 10-13 not be the sole consideration in selecting a proposal.

10-14 (f) A [To be eligible for appointment as a] public
 10-15 defender's office [defender, the governmental entity or nonprofit
 10-16 corporation] must be directed by a chief public defender who:

- 10-17 (1) is a member of the State Bar of Texas;
- 10-18 (2) has practiced law for at least three years; and
- 10-19 (3) has substantial experience in the practice of
 10-20 criminal law.

10-21 (g) A public defender's office [defender] is entitled to
 10-22 receive funds for personnel costs and expenses incurred in
 10-23 operating as a public defender's office [defender] in amounts fixed
 10-24 by the commissioners court and paid out of the appropriate county
 10-25 fund, or jointly fixed by the commissioners courts and
 10-26 proportionately paid out of each appropriate county fund if the
 10-27 public defender's office [defender] serves more than one county.

10-28 (h) A public defender's office [defender] may employ
 10-29 attorneys, licensed investigators, and other personnel necessary
 10-30 to perform the duties of the public defender's office [defender] as
 10-31 specified by the commissioners court or commissioners courts under
 10-32 Subsection (b)(1).

10-33 (i) Except as authorized by this article, the chief public
 10-34 defender and other attorneys [or an attorney] employed by a public
 10-35 defender's office [defender] may not:

- 10-36 (1) engage in the private practice of criminal law; or
- 10-37 (2) accept anything of value not authorized by this
 10-38 article for services rendered under this article.

10-39 (j) A public defender's office [defender] may not accept
 10-40 [refuse] an appointment under Article 26.04(f) if:

- 10-41 (1) a conflict of interest exists that has not been
 10-42 waived by the client;
- 10-43 (2) the public defender's office [defender] has
 10-44 insufficient resources to provide adequate representation for the
 10-45 defendant;
- 10-46 (3) the public defender's office [defender] is
 10-47 incapable of providing representation for the defendant in
 10-48 accordance with the rules of professional conduct; or
- 10-49 (4) the public defender's office [defender] shows
 10-50 other good cause for not accepting [refusing] the appointment.

10-51 (k) The judge may remove from a case a person [public
 10-52 defender] who violates a provision of Subsection (i).

10-53 (l) A public defender's office [defender] may investigate
 10-54 the financial condition of any person the public defender's office
 10-55 [defender] is appointed to represent. The public defender's office
 10-56 [defender] shall report the results of the investigation to the
 10-57 appointing judge. The judge may hold a hearing to determine if the
 10-58 person is indigent and entitled to representation under this
 10-59 article.

10-60 (m) If it is necessary that an attorney who is not employed
 10-61 by [other than] a public defender's office [defender] be appointed,
 10-62 the attorney is entitled to the compensation provided by Article
 10-63 26.05 of this code.

10-64 SECTION 10. Chapter 26, Code of Criminal Procedure, is
 10-65 amended by adding Article 26.045 to read as follows:

10-66 Art. 26.045. PUBLIC DEFENDER OVERSIGHT BOARD. (a) The
 10-67 commissioners court of a county or the commissioners courts of two
 10-68 or more counties may establish an oversight board for a public
 10-69 defender's office created or designated in accordance with this

11-1 chapter.
 11-2 (b) The commissioners court or courts that establish an
 11-3 oversight board under this article shall appoint members of the
 11-4 board. Members may include one or more of the following:
 11-5 (1) an attorney;
 11-6 (2) the judge of a trial court in this state;
 11-7 (3) a county commissioner;
 11-8 (4) a county judge;
 11-9 (5) a community representative; and
 11-10 (6) a former client or a family member of a former
 11-11 client of the public defender's office for which the oversight
 11-12 board was established under this article.
 11-13 (c) The commissioners court or courts may delegate to the
 11-14 board any power or duty of the commissioners court to provide
 11-15 oversight of the office under Article 26.044, including:
 11-16 (1) recommending selection and removal of a chief
 11-17 public defender;
 11-18 (2) setting policy for the office; and
 11-19 (3) developing a budget proposal for the office.
 11-20 (d) An oversight board established under this article may
 11-21 not gain access to privileged or confidential information.
 11-22 SECTION 11. Chapter 26, Code of Criminal Procedure, is
 11-23 amended by adding Article 26.047 to read as follows:
 11-24 Art. 26.047. MANAGED ASSIGNED COUNSEL PROGRAM. (a) In this
 11-25 article:
 11-26 (1) "Governmental entity" has the meaning assigned by
 11-27 Article 26.044.
 11-28 (2) "Managed assigned counsel program" or "program"
 11-29 means a program operated with public funds:
 11-30 (A) by a governmental entity, nonprofit
 11-31 corporation, or bar association under a written agreement with a
 11-32 governmental entity, other than an individual judge or court; and
 11-33 (B) for the purpose of appointing counsel under
 11-34 Article 26.04 of this code or Section 51.10, Family Code.
 11-35 (b) The commissioners court of any county, on written
 11-36 approval of a judge of the juvenile court of a county or a county
 11-37 court, statutory county court, or district court trying criminal
 11-38 cases in the county, may appoint a governmental entity, nonprofit
 11-39 corporation, or bar association to operate a managed assigned
 11-40 counsel program. The commissioners courts of two or more counties
 11-41 may enter into a written agreement to jointly appoint and fund a
 11-42 governmental entity, nonprofit corporation, or bar association to
 11-43 operate a managed assigned counsel program. In appointing an
 11-44 entity to operate a managed assigned counsel program under this
 11-45 subsection, the commissioners court shall specify or the
 11-46 commissioners courts shall jointly specify:
 11-47 (1) the types of cases in which the program may appoint
 11-48 counsel under Article 26.04 of this code or Section 51.10, Family
 11-49 Code, and the courts in which the counsel appointed by the program
 11-50 may be required to appear; and
 11-51 (2) the term of any agreement establishing a program
 11-52 and how the agreement may be terminated or renewed.
 11-53 (c) The commissioners court or commissioners courts shall
 11-54 require a written plan of operation from an entity operating a
 11-55 program under this article. The plan of operation must include:
 11-56 (1) a budget for the program, including salaries;
 11-57 (2) a description of each personnel position,
 11-58 including the program's director;
 11-59 (3) the maximum allowable caseload for each attorney
 11-60 appointed by the program;
 11-61 (4) provisions for training personnel of the program
 11-62 and attorneys appointed under the program;
 11-63 (5) a description of anticipated overhead costs for
 11-64 the program;
 11-65 (6) a policy regarding licensed investigators and
 11-66 expert witnesses used by attorneys appointed under the program;
 11-67 (7) a policy to ensure that appointments are
 11-68 reasonably and impartially allocated among qualified attorneys;
 11-69 and

12-1 (8) a policy to ensure that an attorney appointed
 12-2 under the program does not accept appointment in a case that
 12-3 involves a conflict of interest for the attorney that has not been
 12-4 waived by all affected clients.

12-5 (d) A program under this article must have a director.
 12-6 Unless the program uses a review committee appointed under
 12-7 Subsection (e), a program under this article must be directed by a
 12-8 person who:

- 12-9 (1) is a member of the State Bar of Texas;
- 12-10 (2) has practiced law for at least three years; and
- 12-11 (3) has substantial experience in the practice of
 12-12 criminal law.

12-13 (e) The governmental entity, nonprofit corporation, or bar
 12-14 association operating the program may appoint a review committee of
 12-15 three or more individuals to approve attorneys for inclusion on the
 12-16 program's public appointment list described by Subsection (f).
 12-17 Each member of the committee:

- 12-18 (1) must meet the requirements described by Subsection
 12-19 (d);
- 12-20 (2) may not be employed as a prosecutor; and
- 12-21 (3) may not be included on or apply for inclusion on
 12-22 the public appointment list described by Subsection (f).

12-23 (f) The program's public appointment list from which an
 12-24 attorney is appointed must contain the names of qualified
 12-25 attorneys, each of whom:

- 12-26 (1) applies to be included on the list;
- 12-27 (2) meets any applicable requirements specified by the
 12-28 procedure for appointing counsel adopted under Article 26.04(a) and
 12-29 the Texas Indigent Defense Commission; and
- 12-30 (3) is approved by the program director or review
 12-31 committee, as applicable.

12-32 (g) A court may replace an attorney appointed by the program
 12-33 for the same reasons and in the same manner described by Article
 12-34 26.04(k).

12-35 (h) A managed assigned counsel program is entitled to
 12-36 receive funds for personnel costs and expenses incurred in amounts
 12-37 fixed by the commissioners court and paid out of the appropriate
 12-38 county fund, or jointly fixed by the commissioners courts and
 12-39 proportionately paid out of each appropriate county fund if the
 12-40 program serves more than one county.

12-41 (i) A managed assigned counsel program may employ personnel
 12-42 and enter into contracts necessary to perform the program's duties
 12-43 as specified by the commissioners court or commissioners courts
 12-44 under this article.

12-45 SECTION 12. Articles 26.05(a), (c), and (d), Code of
 12-46 Criminal Procedure, are amended to read as follows:

12-47 (a) A counsel, other than an attorney with a public
 12-48 defender's office [~~defender~~] or an attorney employed by the office
 12-49 of capital writs, appointed to represent a defendant in a criminal
 12-50 proceeding, including a habeas corpus hearing, shall be paid a
 12-51 reasonable attorney's fee for performing the following services,
 12-52 based on the time and labor required, the complexity of the case,
 12-53 and the experience and ability of the appointed counsel:

- 12-54 (1) time spent in court making an appearance on behalf
 12-55 of the defendant as evidenced by a docket entry, time spent in
 12-56 trial, and time spent in a proceeding in which sworn oral testimony
 12-57 is elicited;
- 12-58 (2) reasonable and necessary time spent out of court
 12-59 on the case, supported by any documentation that the court
 12-60 requires;
- 12-61 (3) preparation of an appellate brief and preparation
 12-62 and presentation of oral argument to a court of appeals or the Court
 12-63 of Criminal Appeals; and
- 12-64 (4) preparation of a motion for rehearing.

12-65 (c) Each fee schedule adopted shall state reasonable fixed
 12-66 rates or minimum and maximum hourly rates, taking into
 12-67 consideration reasonable and necessary overhead costs and the
 12-68 availability of qualified attorneys willing to accept the stated
 12-69 rates, and shall provide a form for the appointed counsel to itemize

13-1 the types of services performed. No payment shall be made under
 13-2 this article until the form for itemizing the services performed is
 13-3 submitted to the judge presiding over the proceedings or, if the
 13-4 county operates a managed assigned counsel program under Article
 13-5 26.047, to the director of the program, and until the judge or
 13-6 director, as applicable, approves the payment. If the judge or
 13-7 director disapproves the requested amount of payment, the judge or
 13-8 director shall make written findings stating the amount of payment
 13-9 that the judge or director approves and each reason for approving an
 13-10 amount different from the requested amount. An attorney whose
 13-11 request for payment is disapproved or is not otherwise acted on by
 13-12 the 60th day after the date the request for payment is submitted may
 13-13 appeal the disapproval or failure to act by filing a motion with the
 13-14 presiding judge of the administrative judicial region. On the
 13-15 filing of a motion, the presiding judge of the administrative
 13-16 judicial region shall review the disapproval of payment or failure
 13-17 to act and determine the appropriate amount of payment. In
 13-18 reviewing the disapproval or failure to act, the presiding judge of
 13-19 the administrative judicial region may conduct a hearing. Not
 13-20 later than the 45th day after the date an application for payment of
 13-21 a fee is submitted under this article, the commissioners court
 13-22 shall pay to the appointed counsel the amount that is approved by
 13-23 the presiding judge of the administrative judicial region and that
 13-24 is in accordance with the fee schedule for that county.

13-25 (d) A counsel in a noncapital case, other than an attorney
 13-26 with a public defender's office [~~defender~~], appointed to represent
 13-27 a defendant under this code shall be reimbursed for reasonable and
 13-28 necessary expenses, including expenses for investigation and for
 13-29 mental health and other experts. Expenses incurred with prior
 13-30 court approval shall be reimbursed in the same manner provided for
 13-31 capital cases by Articles 26.052(f) and (g), and expenses incurred
 13-32 without prior court approval shall be reimbursed in the manner
 13-33 provided for capital cases by Article 26.052(h).

13-34 SECTION 13. Section 11(a), Article 42.12, Code of Criminal
 13-35 Procedure, is amended to read as follows:

13-36 (a) The judge of the court having jurisdiction of the case
 13-37 shall determine the conditions of community supervision and may, at
 13-38 any time during the period of community supervision, alter or
 13-39 modify the conditions. The judge may impose any reasonable
 13-40 condition that is designed to protect or restore the community,
 13-41 protect or restore the victim, or punish, rehabilitate, or reform
 13-42 the defendant. Conditions of community supervision may include,
 13-43 but shall not be limited to, the conditions that the defendant
 13-44 shall:

- 13-45 (1) Commit no offense against the laws of this State or
- 13-46 of any other State or of the United States;
- 13-47 (2) Avoid injurious or vicious habits;
- 13-48 (3) Avoid persons or places of disreputable or harmful
- 13-49 character, including any person, other than a family member of the
- 13-50 defendant, who is an active member of a criminal street gang;
- 13-51 (4) Report to the supervision officer as directed by
- 13-52 the judge or supervision officer and obey all rules and regulations
- 13-53 of the community supervision and corrections department;
- 13-54 (5) Permit the supervision officer to visit the
- 13-55 defendant at the defendant's home or elsewhere;
- 13-56 (6) Work faithfully at suitable employment as far as
- 13-57 possible;
- 13-58 (7) Remain within a specified place;
- 13-59 (8) Pay the defendant's fine, if one is assessed, and
- 13-60 all court costs whether a fine is assessed or not, in one or several
- 13-61 sums;
- 13-62 (9) Support the defendant's dependents;
- 13-63 (10) Participate, for a time specified by the judge,
- 13-64 in any community-based program, including a community-service work
- 13-65 program under Section 16 of this article;
- 13-66 (11) Reimburse the county in which the prosecution was
- 13-67 instituted for compensation paid to appointed counsel for defending
- 13-68 the defendant in the case, if counsel was appointed, or if the
- 13-69 defendant was represented by a [~~county-paid~~] public defender's

14-1 office [defender], in an amount that would have been paid to an
14-2 appointed attorney had the county not had a public defender's
14-3 office [defender];

14-4 (12) Remain under custodial supervision in a community
14-5 corrections facility, obey all rules and regulations of the
14-6 facility, and pay a percentage of the defendant's income to the
14-7 facility for room and board;

14-8 (13) Pay a percentage of the defendant's income to the
14-9 defendant's dependents for their support while under custodial
14-10 supervision in a community corrections facility;

14-11 (14) Submit to testing for alcohol or controlled
14-12 substances;

14-13 (15) Attend counseling sessions for substance abusers
14-14 or participate in substance abuse treatment services in a program
14-15 or facility approved or licensed by the Department of State Health
14-16 Services [Texas Commission on Alcohol and Drug Abuse];

14-17 (16) With the consent of the victim of a misdemeanor
14-18 offense or of any offense under Title 7, Penal Code, participate in
14-19 victim-defendant mediation;

14-20 (17) Submit to electronic monitoring;

14-21 (18) Reimburse the compensation to victims of crime
14-22 fund for any amounts paid from that fund to or on behalf of a victim,
14-23 as defined by Article 56.32, of the defendant's offense or if no
14-24 reimbursement is required, make one payment to the compensation to
14-25 victims of crime fund in an amount not to exceed \$50 if the offense
14-26 is a misdemeanor or not to exceed \$100 if the offense is a felony;

14-27 (19) Reimburse a law enforcement agency for the
14-28 analysis, storage, or disposal of raw materials, controlled
14-29 substances, chemical precursors, drug paraphernalia, or other
14-30 materials seized in connection with the offense;

14-31 (20) Pay all or part of the reasonable and necessary
14-32 costs incurred by the victim for psychological counseling made
14-33 necessary by the offense or for counseling and education relating
14-34 to acquired immune deficiency syndrome or human immunodeficiency
14-35 virus made necessary by the offense;

14-36 (21) Make one payment in an amount not to exceed \$50 to
14-37 a crime stoppers organization as defined by Section 414.001,
14-38 Government Code, and as certified by the Texas Crime Stoppers
14-39 Council;

14-40 (22) Submit a DNA sample to the Department of Public
14-41 Safety under Subchapter G, Chapter 411, Government Code, for the
14-42 purpose of creating a DNA record of the defendant;

14-43 (23) In any manner required by the judge, provide
14-44 public notice of the offense for which the defendant was placed on
14-45 community supervision in the county in which the offense was
14-46 committed; and

14-47 (24) Reimburse the county in which the prosecution was
14-48 instituted for compensation paid to any interpreter in the case.

14-49 SECTION 14. Section 133.107, Local Government Code, is
14-50 amended to read as follows:

14-51 Sec. 133.107. FEE FOR SUPPORT OF INDIGENT DEFENSE
14-52 REPRESENTATION. (a) A person convicted of any offense, other than
14-53 an offense relating to a pedestrian or the parking of a motor
14-54 vehicle, shall pay as a court cost, in addition to other costs, a
14-55 fee of \$2 to be used to fund indigent defense representation through
14-56 the fair defense account established under Section 79.031 [71.058],
14-57 Government Code.

14-58 (b) The treasurer shall remit a fee collected under this
14-59 section to the comptroller in the manner provided by Subchapter B.
14-60 The comptroller shall credit the remitted fees to the credit of the
14-61 fair defense account established under Section 79.031 [71.058],
14-62 Government Code.

14-63 SECTION 15. The following are repealed:

14-64 (1) Article 26.05(i), Code of Criminal Procedure;

14-65 (2) Section 71.0351, Government Code; and

14-66 (3) Subchapter D, Chapter 71, Government Code.

14-67 SECTION 16. As soon as possible after the effective date of
14-68 this Act, the governor shall appoint the initial governing board of
14-69 the Texas Indigent Defense Commission in accordance with Subchapter

15-1 B, Chapter 79, Government Code, as added by this Act. To enable the
15-2 staggering of terms as required by Section 79.014(b) of that
15-3 subchapter, the governor shall appoint two members whose terms
15-4 expire on February 1 of the next odd-numbered year and three members
15-5 whose terms expire on February 1 of the next even-numbered year.

15-6 SECTION 17. (a) On the date the last appointee to the
15-7 initial governing board of the Texas Indigent Defense Commission
15-8 takes office, the Task Force on Indigent Defense established under
15-9 Subchapter D, Chapter 71, Government Code, is abolished. On that
15-10 date, the powers, duties, obligations, rights, contracts, records,
15-11 personnel, property, and unspent appropriations of the task force
15-12 are transferred to the commission.

15-13 (b) All rules of the Task Force on Indigent Defense are
15-14 continued in effect as rules of the Texas Indigent Defense
15-15 Commission until superseded by a rule of the commission.

15-16 (c) Notwithstanding the changes in law made by this Act,
15-17 until the date the Task Force on Indigent Defense is abolished as
15-18 provided by this section, the members and the director of the task
15-19 force on the effective date of this Act may continue in office and
15-20 exercise their powers and duties under the law that governed the
15-21 task force before the effective date of this Act, and the prior law
15-22 is continued in effect for that purpose.

15-23 SECTION 18. Not later than December 1, 2011, the Texas
15-24 Indigent Defense Commission and the Texas Judicial Council shall
15-25 adopt a memorandum of understanding to facilitate the timely
15-26 implementation of this Act.

15-27 SECTION 19. This Act takes effect September 1, 2011.

15-28

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