

1-1 By: Turner of Harris, et al. H.B. No. 1318
1-2 (Senate Sponsor - Whitmire)
1-3 (In the Senate - Received from the House May 10, 2013;
1-4 May 10, 2013, read first time and referred to Committee on Criminal
1-5 Justice; May 15, 2013, reported favorably by the following vote:
1-6 Yeas 6, Nays 0; May 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Carona			X	
1-11 Hinojosa	X			
1-12 Patrick	X			
1-13 Rodriguez	X			
1-14 Schwertner	X			

1-16 A BILL TO BE ENTITLED
1-17 AN ACT

1-18 relating to the appointment of counsel to represent certain youths
1-19 and indigent defendants.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Article 26.044, Code of Criminal Procedure, is
1-22 amended by amending Subsection (j) and adding Subsections (j-1) and
1-23 (j-2) to read as follows:

1-24 (j) A public defender's office may not accept an appointment
1-25 under Article 26.04(f) if:

1-26 (1) a conflict of interest exists that has not been
1-27 waived by the client;

1-28 (2) the public defender's office has insufficient
1-29 resources to provide adequate representation for the defendant;

1-30 (3) the public defender's office is incapable of
1-31 providing representation for the defendant in accordance with the
1-32 rules of professional conduct;

1-33 (4) the acceptance of the appointment would violate
1-34 the maximum allowable caseloads established at the public
1-35 defender's office; or

1-36 (5) ~~(4)~~ the public defender's office shows other
1-37 good cause for not accepting the appointment.

1-38 (j-1) On refusing an appointment under Subsection (j), a
1-39 chief public defender shall file with the court a written statement
1-40 that identifies any reason for refusing the appointment. The court
1-41 shall determine whether the chief public defender has demonstrated
1-42 adequate good cause for refusing the appointment and shall include
1-43 the statement with the papers in the case.

1-44 (j-2) A chief public defender may not be terminated,
1-45 removed, or sanctioned for refusing in good faith to accept an
1-46 appointment under Subsection (j).

1-47 SECTION 2. Section 51.101(a), Family Code, is amended to
1-48 read as follows:

1-49 (a) If an attorney is appointed under Section 54.01(b-1) or
1-50 (d) to represent a child at the initial detention hearing and the
1-51 child is detained, the attorney shall continue to represent the
1-52 child until the case is terminated, the family retains an attorney,
1-53 or a new attorney is appointed by the juvenile court. Release of
1-54 the child from detention does not terminate the attorney's
1-55 representation.

1-56 SECTION 3. Section 54.01, Family Code, is amended by adding
1-57 Subsection (b-1) and amending Subsection (d) to read as follows:

1-58 (b-1) Unless the court finds that the appointment of counsel
1-59 is not feasible due to exigent circumstances, the court shall
1-60 appoint counsel within a reasonable time before the first detention
1-61 hearing is held to represent the child at that hearing.

(d) A detention hearing may be held without the presence of the child's parents if the court has been unable to locate them. If no parent or guardian is present, the court shall appoint counsel or a guardian ad litem for the child, subject to the requirements of Subsection (b-1).

SECTION 4. Sections 51.101(a) and 54.01, Family Code, as amended by this Act, apply only to a detention hearing that is held for a child taken into custody on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2013.

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