

By: Ellis, et al.  
(Herrero)

S.B. No. 592

A BILL TO BE ENTITLED

AN ACT

relating to the representation of indigent defendants in criminal cases.

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

SECTION 1. Subsection (j), Article 26.04, Code of Criminal Procedure, is amended to read as follows:

(j) An attorney appointed under this article shall:

(1) make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed;

(2) represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record; ~~and~~

(3) with respect to a defendant not represented by other counsel, before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty:

(A) advise the defendant of the defendant's right to file a motion for new trial and a notice of appeal;

(B) if the defendant wishes to pursue either or both remedies described by Paragraph (A), assist the defendant in requesting the prompt appointment of replacement counsel; and

1 (C) if replacement counsel is not appointed  
2 promptly and the defendant wishes to pursue an appeal, file a timely  
3 notice of appeal; and

4 (4) not later than October 15 of each year and in the  
5 form and manner prescribed by the Texas Indigent Defense  
6 Commission, submit to the county information that describes the  
7 attorney's caseload for the preceding fiscal year, including cases  
8 taken on a retainer.

9 SECTION 2. Effective September 1, 2013, Subsection (a),  
10 Section 79.036, Government Code, is amended to read as follows:

11 (a) Not [~~In each county, not~~] later than November 1 of each  
12 odd-numbered year and in the form and manner prescribed by the  
13 commission, each county [~~the following information~~] shall prepare  
14 [~~be prepared~~] and provide [~~provided~~] to the commission:

15 (1) a copy of all formal and informal rules and forms  
16 that describe the procedures used in the county to provide indigent  
17 defendants with counsel in accordance with the Code of Criminal  
18 Procedure, including the schedule of fees required under Article  
19 26.05 of that code;

20 (2) any plan or proposal submitted to the  
21 commissioners court under Article 26.044, Code of Criminal  
22 Procedure;

23 (3) any plan of operation submitted to the  
24 commissioners court under Article 26.047, Code of Criminal  
25 Procedure;

26 (4) any contract for indigent defense services  
27 required under rules adopted by the commission relating to a

1 contract defender program;

2           (5) [~~2~~] any revisions to rules, [~~or~~] forms, plans,  
3 proposals, or contracts previously submitted under this section; or

4           (6) [~~3~~] verification that rules, [~~and~~] forms,  
5 plans, proposals, or contracts previously submitted under this  
6 section still remain in effect.

7           SECTION 3. Section 79.036, Government Code, is amended by  
8 adding Subsection (a-1) to read as follows:

9           (a-1) Not later than November 1 of each year and in the form  
10 and manner prescribed by the commission, each county shall prepare  
11 and provide to the commission information that describes for the  
12 preceding fiscal year the caseloads of attorneys receiving  
13 appointments under Article 26.04, Code of Criminal Procedure.

14           SECTION 4. (a) This section takes effect September 1,  
15 2013.

16           (b) Not later than September 1, 2014, the Texas Indigent  
17 Defense Commission shall conduct and publish a study for the  
18 purpose of determining guidelines for establishing a maximum  
19 allowable caseload for a criminal defense attorney that, when the  
20 attorney's total caseload, including appointments made under  
21 Article 26.04, Code of Criminal Procedure, appointments made under  
22 Title 3, Family Code, and other work, is considered, allows the  
23 attorney to give each indigent defendant the time and effort  
24 necessary to ensure effective representation. The study must be  
25 based on relevant policies, performance guidelines, and best  
26 practices.

27           (c) In conducting the study under Subsection (b) of this

1 section, the commission shall consult with criminal defense  
2 attorneys, criminal defense attorney associations, the judiciary,  
3 and any other organization engaged in the development of criminal  
4 indigent defense policy that the commission considers appropriate.

5 SECTION 5. The change in law made by this Act applies only  
6 to a criminal proceeding that commences on or after the effective  
7 date of this Act. A criminal proceeding that commences before the  
8 effective date of this Act is governed by the law in effect when the  
9 proceeding commenced, and the former law is continued in effect for  
10 that purpose.

11 SECTION 6. Except as otherwise provided by this Act, this  
12 Act takes effect September 1, 2014.