

By: Hinojosa

S.B. No. 780

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prioritization of certain available legal defense
3 services when appointing representation for an indigent defendant
4 in a criminal case.

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

6 SECTION 1. Articles 26.04(f), (h), and (i), Code of
7 Criminal Procedure, are amended to read as follows:

8 (f) In a county in which a public defender's office is
9 created or designated under Article 26.044, the court or the
10 courts' designee shall ~~may~~ appoint that office to represent the
11 defendant, except that the court is not required to make an
12 appointment under this subsection if:

13 (1) the court makes a finding of good cause on the
14 record for appointing other counsel; or

15 (2) a managed assigned counsel program also exists in
16 the county and an attorney will be appointed under that program ~~[in~~
17 ~~accordance with guidelines established for the office].~~

18 (h) Subject to Subsection (f), in ~~[In]~~ a county in which an
19 alternative program for appointing counsel is established as
20 provided by Subsection (g) and is approved by the presiding judge of
21 the administrative judicial region, a court or the courts' designee
22 may appoint an attorney to represent an indigent defendant by using
23 the alternative program. In establishing an alternative program
24 under Subsection (g), the judges of the courts establishing the

1 program may not, without the approval of the commissioners court,
2 obligate the county by contract or by the creation of new positions
3 that cause an increase in expenditure of county funds.

4 (i) Subject to Subsection (f), a [A] court or the courts'
5 designee required under Subsection (c) to appoint an attorney to
6 represent a defendant accused or convicted of a felony may appoint
7 an attorney from any county located in the court's administrative
8 judicial region.

9 SECTION 2. Article 26.044(c-1), Code of Criminal Procedure,
10 is amended to read as follows:

11 (c-1) A written plan under Subsection (b-1) or a proposal
12 under Subsection (c) must include:

13 (1) a budget for the public defender's office,
14 including salaries;

15 (2) a description of each personnel position,
16 including the chief public defender position;

17 (3) the maximum allowable caseloads for each attorney
18 employed by the public defender's office;

19 (4) provisions for personnel training;

20 (5) a description of anticipated overhead costs for
21 the public defender's office;

22 (6) policies regarding the use of licensed
23 investigators and expert witnesses by the public defender's office;

24 [~~and~~]

25 (7) a policy to ensure that the chief public defender
26 and other attorneys employed by the public defender's office do not
27 provide representation to a defendant if doing so would create a

1 conflict of interest that has not been waived by the client; and
2 (8) a policy that establishes circumstances
3 constituting good cause under Article 26.04(f), such as attorney
4 caseloads at the public defender's office, the distance that an
5 attorney employed by a regional public defender's office would have
6 to travel if appointed to the case, or any other circumstance that
7 the commissioners court or courts consider appropriate.

8 SECTION 3. The change in law made by this Act applies only
9 to a criminal proceeding that commences on or after the effective
10 date of this Act. A criminal proceeding that commences before the
11 effective date of this Act is governed by the law in effect when the
12 proceeding commenced, and the former law is continued in effect for
13 that purpose.

14 SECTION 4. This Act takes effect September 1, 2013.