

1-1 By: Hinojosa S.B. No. 780
 1-2 (In the Senate - Filed February 22, 2013; February 26, 2013,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 18, 2013, reported favorably by the following vote:
 1-5 Yeas 4, Nays 1; April 18, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman		X		
1-9 Carona	X			
1-10 Hinojosa	X			
1-11 Patrick			X	
1-12 Rodriguez	X			
1-13 Schwertner			X	

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the prioritization of certain available legal defense
 1-18 services when appointing representation for an indigent defendant
 1-19 in a criminal case.

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

1-21 SECTION 1. Subsections (f), (h), and (i), Article 26.04,
 1-22 Code of Criminal Procedure, are amended to read as follows:

1-23 (f) In a county in which a public defender's office is
 1-24 created or designated under Article 26.044, the court or the
 1-25 courts' designee shall ~~may~~ appoint that office to represent the
 1-26 defendant, except that the court is not required to make an
 1-27 appointment under this subsection if:

1-28 (1) the court makes a finding of good cause on the
 1-29 record for appointing other counsel; or

1-30 (2) a managed assigned counsel program also exists in
 1-31 the county and an attorney will be appointed under that program ~~[in~~
 1-32 ~~accordance with guidelines established for the office].~~

1-33 (h) Subject to Subsection (f), in ~~[In]~~ a county in which an
 1-34 alternative program for appointing counsel is established as
 1-35 provided by Subsection (g) and is approved by the presiding judge of
 1-36 the administrative judicial region, a court or the courts' designee
 1-37 may appoint an attorney to represent an indigent defendant by using
 1-38 the alternative program. In establishing an alternative program
 1-39 under Subsection (g), the judges of the courts establishing the
 1-40 program may not, without the approval of the commissioners court,
 1-41 obligate the county by contract or by the creation of new positions
 1-42 that cause an increase in expenditure of county funds.

1-43 (i) Subject to Subsection (f), a ~~[A]~~ court or the courts'
 1-44 designee required under Subsection (c) to appoint an attorney to
 1-45 represent a defendant accused or convicted of a felony may appoint
 1-46 an attorney from any county located in the court's administrative
 1-47 judicial region.

1-48 SECTION 2. Subsection (c-1), Article 26.044, Code of
 1-49 Criminal Procedure, is amended to read as follows:

1-50 (c-1) A written plan under Subsection (b-1) or a proposal
 1-51 under Subsection (c) must include:

1-52 (1) a budget for the public defender's office,
 1-53 including salaries;

1-54 (2) a description of each personnel position,
 1-55 including the chief public defender position;

1-56 (3) the maximum allowable caseloads for each attorney
 1-57 employed by the public defender's office;

1-58 (4) provisions for personnel training;

1-59 (5) a description of anticipated overhead costs for
 1-60 the public defender's office;

1-61 (6) policies regarding the use of licensed

2-1 investigators and expert witnesses by the public defender's office;
2-2 [~~and~~]

2-3 (7) a policy to ensure that the chief public defender
2-4 and other attorneys employed by the public defender's office do not
2-5 provide representation to a defendant if doing so would create a
2-6 conflict of interest that has not been waived by the client; and

2-7 (8) a policy that establishes circumstances
2-8 constituting good cause under Article 26.04(f), such as attorney
2-9 caseloads at the public defender's office, the distance that an
2-10 attorney employed by a regional public defender's office would have
2-11 to travel if appointed to the case, or any other circumstance that
2-12 the commissioners court or courts consider appropriate.

2-13 SECTION 3. The change in law made by this Act applies only
2-14 to a criminal proceeding that commences on or after the effective
2-15 date of this Act. A criminal proceeding that commences before the
2-16 effective date of this Act is governed by the law in effect when the
2-17 proceeding commenced, and the former law is continued in effect for
2-18 that purpose.

2-19 SECTION 4. This Act takes effect September 1, 2013.

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