

By: Seliger, West

S.B. No. 1517

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the appointment of counsel to represent indigent
3 defendants in criminal cases.

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

5 SECTION 1. Article 1.051, Code of Criminal Procedure, is
6 amended by amending Subsections (c), (i), and (k) and adding
7 Subsection (c-1) to read as follows:

8 (c) An indigent defendant is entitled to have an attorney
9 appointed to represent him in any adversary judicial proceeding
10 that may result in punishment by confinement and in any other
11 criminal proceeding if the court concludes that the interests of
12 justice require representation. Subject to Subsection (c-1)
13 [~~Except as otherwise provided by this subsection~~], if an indigent
14 defendant is entitled to and requests appointed counsel and if
15 adversarial judicial proceedings have been initiated against the
16 defendant, a court or the courts' designee authorized under Article
17 26.04 to appoint counsel for indigent defendants in the county in
18 which the defendant is arrested shall appoint counsel as soon as
19 possible, but not later than:

20 (1) the end of the third working day after the date on
21 which the court or the courts' designee receives the defendant's
22 request for appointment of counsel, if the defendant is arrested in
23 a county with a population of less than 250,000; or

24 (2) [~~In a county with a population of 250,000 or~~

1 ~~more, the court or the courts' designee shall appoint counsel as~~
2 ~~required by this subsection as soon as possible, but not later than]~~
3 the end of the first working day after the date on which the court or
4 the courts' designee receives the defendant's request for
5 appointment of counsel, if the defendant is arrested in a county
6 with a population of 250,000 or more.

7 (c-1) If an indigent defendant is arrested under a warrant
8 issued in a county other than the county in which the arrest was
9 made and the defendant is entitled to and requests appointed
10 counsel, a court or the courts' designee authorized under Article
11 26.04 to appoint counsel for indigent defendants in the county that
12 issued the warrant shall appoint counsel within the periods
13 prescribed by Subsection (c), regardless of whether the defendant
14 is present within the county issuing the warrant and even if
15 adversarial judicial proceedings have not yet been initiated
16 against the defendant in the county issuing the warrant. However,
17 if the defendant has not been transferred or released into the
18 custody of the county issuing the warrant before the 11th day after
19 the date of the arrest and if counsel has not otherwise been
20 appointed for the defendant in the arresting county under this
21 article, a court or the courts' designee authorized under Article
22 26.04 to appoint counsel for indigent defendants in the arresting
23 county immediately shall appoint counsel to represent the defendant
24 in any matter under Chapter 11 or 17, regardless of whether
25 adversarial judicial proceedings have been initiated against the
26 defendant in the arresting county. If counsel is appointed for the
27 defendant in the arresting county as required by this subsection,

1 the arresting county may seek from the county that issued the
2 warrant reimbursement for the actual costs paid by the arresting
3 county for the appointed counsel.

4 (i) Subject to Subsection (c-1) [~~Except as otherwise~~
5 ~~provided by this subsection~~], with respect to a county with a
6 population of less than 250,000, if an indigent defendant is
7 entitled to and requests appointed counsel and if adversarial
8 judicial proceedings have not been initiated against the defendant,
9 a court or the courts' designee authorized under Article 26.04 to
10 appoint counsel for indigent defendants in the county in which the
11 defendant is arrested shall appoint counsel immediately following
12 the expiration of three working days after the date on which the
13 court or the courts' designee receives the defendant's request for
14 appointment of counsel. If adversarial judicial proceedings are
15 initiated against the defendant before the expiration of the three
16 working days, the court or the courts' designee shall appoint
17 counsel as provided by Subsection (c). Subject to Subsection
18 (c-1), in [~~In~~] a county with a population of 250,000 or more, the
19 court or the courts' designee shall appoint counsel as required by
20 this subsection immediately following the expiration of one working
21 day after the date on which the court or the courts' designee
22 receives the defendant's request for appointment of counsel. If
23 adversarial judicial proceedings are initiated against the
24 defendant before the expiration of the one working day, the court or
25 the courts' designee shall appoint counsel as provided by
26 Subsection (c).

27 (k) A court or the courts' designee may without unnecessary

1 delay appoint new counsel to represent an indigent defendant for
2 whom counsel is appointed under Subsection (c), (c-1), or (i) if:

3 (1) the defendant is subsequently charged in the case
4 with an offense different from the offense with which the defendant
5 was initially charged; and

6 (2) good cause to appoint new counsel is stated on the
7 record as required by Article 26.04(j)(2).

8 SECTION 2. Article 15.17(e), Code of Criminal Procedure, is
9 amended to read as follows:

10 (e) In each case in which a person arrested is taken before a
11 magistrate as required by Subsection (a) or Article 15.18(a), a
12 record shall be made of:

13 (1) the magistrate informing the person of the
14 person's right to request appointment of counsel;

15 (2) the magistrate asking the person whether the
16 person wants to request appointment of counsel; and

17 (3) whether the person requested appointment of
18 counsel.

19 SECTION 3. Article 15.18, Code of Criminal Procedure, is
20 amended by adding Subsection (a-1) to read as follows:

21 (a-1) If the arrested person is taken before a magistrate of
22 a county other than the county that issued the warrant, the
23 magistrate shall inform the person arrested of the procedures for
24 requesting appointment of counsel and ensure that reasonable
25 assistance in completing the necessary forms for requesting
26 appointment of counsel is provided to the person at the same time.
27 If the person requests the appointment of counsel, the magistrate

1 shall, without unnecessary delay but not later than 24 hours after
2 the person requested the appointment of counsel, transmit, or cause
3 to be transmitted, the necessary request forms to a court or the
4 courts' designee authorized under Article 26.04 to appoint counsel
5 in the county issuing the warrant.

6 SECTION 4. Article 26.04(a), Code of Criminal Procedure, is
7 amended to read as follows:

8 (a) The judges of the county courts, statutory county
9 courts, and district courts trying criminal cases in each county,
10 by local rule, shall adopt and publish written countywide
11 procedures for timely and fairly appointing counsel for an indigent
12 defendant in the county arrested for, charged with, or taking an
13 appeal from a conviction of a misdemeanor punishable by confinement
14 or a felony. The procedures must be consistent with this article
15 and Articles 1.051, 15.17, 15.18, 26.05, and 26.052. A court shall
16 appoint an attorney from a public appointment list using a system of
17 rotation, unless the court appoints an attorney under Subsection
18 (f), (f-1), (h), or (i). The court shall appoint attorneys from
19 among the next five names on the appointment list in the order in
20 which the attorneys' names appear on the list, unless the court
21 makes a finding of good cause on the record for appointing an
22 attorney out of order. An attorney who is not appointed in the
23 order in which the attorney's name appears on the list shall remain
24 next in order on the list.

25 SECTION 5. The change in law made by this Act applies only
26 to a person who is arrested on or after the effective date of this
27 Act. A person arrested before the effective date of this Act is

1 governed by the law in effect on the date the person was arrested,
2 and the former law is continued in effect for that purpose.

3 SECTION 6. This Act takes effect September 1, 2015.