

1-1 By: Seliger, West S.B. No. 1517  
1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 23, 2015, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 23, 2015,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Burton	X		
1-12	Creighton	X		
1-13	Hinojosa	X		
1-14	Menéndez	X		
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1517 By: Whitmire

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the appointment of counsel to represent indigent  
1-20 defendants in criminal cases.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Article 1.051, Code of Criminal Procedure, is  
1-23 amended by amending Subsections (c), (i), and (k) and adding  
1-24 Subsection (c-1) to read as follows:

1-25 (c) An indigent defendant is entitled to have an attorney  
1-26 appointed to represent him in any adversary judicial proceeding  
1-27 that may result in punishment by confinement and in any other  
1-28 criminal proceeding if the court concludes that the interests of  
1-29 justice require representation. Subject to Subsection (c-1)  
1-30 ~~[Except as otherwise provided by this subsection],~~ if an indigent  
1-31 defendant is entitled to and requests appointed counsel and if  
1-32 adversarial judicial proceedings have been initiated against the  
1-33 defendant, a court or the courts' designee authorized under Article  
1-34 26.04 to appoint counsel for indigent defendants in the county in  
1-35 which the defendant is arrested shall appoint counsel as soon as  
1-36 possible, but not later than:

1-37 (1) the end of the third working day after the date on  
1-38 which the court or the courts' designee receives the defendant's  
1-39 request for appointment of counsel, if the defendant is arrested in  
1-40 a county with a population of less than 250,000; or

1-41 (2) ~~[. In a county with a population of 250,000 or~~  
1-42 ~~more, the court or the courts' designee shall appoint counsel as~~  
1-43 ~~required by this subsection as soon as possible, but not later than]~~  
1-44 the end of the first working day after the date on which the court or  
1-45 the courts' designee receives the defendant's request for  
1-46 appointment of counsel, if the defendant is arrested in a county  
1-47 with a population of 250,000 or more.

1-48 (c-1) If an indigent defendant is arrested under a warrant  
1-49 issued in a county other than the county in which the arrest was  
1-50 made and the defendant is entitled to and requests appointed  
1-51 counsel, a court or the courts' designee authorized under Article  
1-52 26.04 to appoint counsel for indigent defendants in the county that  
1-53 issued the warrant shall appoint counsel within the periods  
1-54 prescribed by Subsection (c), regardless of whether the defendant  
1-55 is present within the county issuing the warrant and even if  
1-56 adversarial judicial proceedings have not yet been initiated  
1-57 against the defendant in the county issuing the warrant. However,  
1-58 if the defendant has not been transferred or released into the  
1-59 custody of the county issuing the warrant before the 11th day after  
1-60 the date of the arrest and if counsel has not otherwise been

2-1 appointed for the defendant in the arresting county under this  
 2-2 article, a court or the courts' designee authorized under Article  
 2-3 26.04 to appoint counsel for indigent defendants in the arresting  
 2-4 county immediately shall appoint counsel to represent the defendant  
 2-5 in any matter under Chapter 11 or 17, regardless of whether  
 2-6 adversarial judicial proceedings have been initiated against the  
 2-7 defendant in the arresting county. If counsel is appointed for the  
 2-8 defendant in the arresting county as required by this subsection,  
 2-9 the arresting county may seek from the county that issued the  
 2-10 warrant reimbursement for the actual costs paid by the arresting  
 2-11 county for the appointed counsel.

2-12 (i) Subject to Subsection (c-1) [~~Except as otherwise~~  
 2-13 ~~provided by this subsection]~~, with respect to a county with a  
 2-14 population of less than 250,000, if an indigent defendant is  
 2-15 entitled to and requests appointed counsel and if adversarial  
 2-16 judicial proceedings have not been initiated against the defendant,  
 2-17 a court or the courts' designee authorized under Article 26.04 to  
 2-18 appoint counsel for indigent defendants in the county in which the  
 2-19 defendant is arrested shall appoint counsel immediately following  
 2-20 the expiration of three working days after the date on which the  
 2-21 court or the courts' designee receives the defendant's request for  
 2-22 appointment of counsel. If adversarial judicial proceedings are  
 2-23 initiated against the defendant before the expiration of the three  
 2-24 working days, the court or the courts' designee shall appoint  
 2-25 counsel as provided by Subsection (c). Subject to Subsection  
 2-26 (c-1), in [~~In~~] a county with a population of 250,000 or more, the  
 2-27 court or the courts' designee shall appoint counsel as required by  
 2-28 this subsection immediately following the expiration of one working  
 2-29 day after the date on which the court or the courts' designee  
 2-30 receives the defendant's request for appointment of counsel. If  
 2-31 adversarial judicial proceedings are initiated against the  
 2-32 defendant before the expiration of the one working day, the court or  
 2-33 the courts' designee shall appoint counsel as provided by  
 2-34 Subsection (c).

2-35 (k) A court or the courts' designee may without unnecessary  
 2-36 delay appoint new counsel to represent an indigent defendant for  
 2-37 whom counsel is appointed under Subsection (c), (c-1), or (i) if:

2-38 (1) the defendant is subsequently charged in the case  
 2-39 with an offense different from the offense with which the defendant  
 2-40 was initially charged; and

2-41 (2) good cause to appoint new counsel is stated on the  
 2-42 record as required by Article 26.04(j)(2).

2-43 SECTION 2. Article 15.17(e), Code of Criminal Procedure, is  
 2-44 amended to read as follows:

2-45 (e) In each case in which a person arrested is taken before a  
 2-46 magistrate as required by Subsection (a) or Article 15.18(a), a  
 2-47 record shall be made of:

2-48 (1) the magistrate informing the person of the  
 2-49 person's right to request appointment of counsel;

2-50 (2) the magistrate asking the person whether the  
 2-51 person wants to request appointment of counsel; and

2-52 (3) whether the person requested appointment of  
 2-53 counsel.

2-54 SECTION 3. Article 15.18, Code of Criminal Procedure, is  
 2-55 amended by adding Subsection (a-1) to read as follows:

2-56 (a-1) If the arrested person is taken before a magistrate of  
 2-57 a county other than the county that issued the warrant, the  
 2-58 magistrate shall inform the person arrested of the procedures for  
 2-59 requesting appointment of counsel and ensure that reasonable  
 2-60 assistance in completing the necessary forms for requesting  
 2-61 appointment of counsel is provided to the person at the same time.  
 2-62 If the person requests the appointment of counsel, the magistrate  
 2-63 shall, without unnecessary delay but not later than 24 hours after  
 2-64 the person requested the appointment of counsel, transmit, or cause  
 2-65 to be transmitted, the necessary request forms to a court or the  
 2-66 courts' designee authorized under Article 26.04 to appoint counsel  
 2-67 in the county issuing the warrant.

2-68 SECTION 4. Article 26.04(a), Code of Criminal Procedure, is  
 2-69 amended to read as follows:

3-1 (a) The judges of the county courts, statutory county  
3-2 courts, and district courts trying criminal cases in each county,  
3-3 by local rule, shall adopt and publish written countywide  
3-4 procedures for timely and fairly appointing counsel for an indigent  
3-5 defendant in the county arrested for, charged with, or taking an  
3-6 appeal from a conviction of a misdemeanor punishable by confinement  
3-7 or a felony. The procedures must be consistent with this article  
3-8 and Articles [1.051](#), [15.17](#), [15.18](#), [26.05](#), and [26.052](#). A court shall  
3-9 appoint an attorney from a public appointment list using a system of  
3-10 rotation, unless the court appoints an attorney under Subsection  
3-11 (f), (f-1), (h), or (i). The court shall appoint attorneys from  
3-12 among the next five names on the appointment list in the order in  
3-13 which the attorneys' names appear on the list, unless the court  
3-14 makes a finding of good cause on the record for appointing an  
3-15 attorney out of order. An attorney who is not appointed in the  
3-16 order in which the attorney's name appears on the list shall remain  
3-17 next in order on the list.

3-18 SECTION 5. The change in law made by this Act applies only  
3-19 to a person who is arrested on or after the effective date of this  
3-20 Act. A person arrested before the effective date of this Act is  
3-21 governed by the law in effect on the date the person was arrested,  
3-22 and the former law is continued in effect for that purpose.

3-23 SECTION 6. This Act takes effect September 1, 2015.

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