

By: Miles

S.B. No. 1741

A BILL TO BE ENTITLED

AN ACT

relating to attorneys in certain counties who are qualified for appointment to represent a defendant with a mental illness.

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

SECTION 1. Articles 26.04(e) and (g), Code of Criminal Procedure, are amended to read as follows:

(e) In a county in which a court is required under Subsection (a) to appoint an attorney from a public appointment list:

(1) the judges of the county courts and statutory county courts trying misdemeanor cases in the county, by formal action:

(A) shall:

(i) establish a public appointment list of attorneys qualified to provide representation in the county in misdemeanor cases punishable by confinement, including, in a county with a population of 250,000 or more, a separate appointment list of attorneys qualified to represent a defendant with a mental illness;

and

(ii) specify the objective qualifications necessary for an attorney to be included on a [the] list under Subparagraph (i); and

(B) may establish, if determined by the judges to be appropriate, more than one appointment list graduated according

1 to the degree of seriousness of the offense, the attorneys'
2 qualifications, and whether representation will be provided in
3 trial court proceedings, appellate proceedings, or both; and

4 (2) the judges of the district courts trying felony
5 cases in the county, by formal action:

6 (A) shall:

7 (i) establish a public appointment list of
8 attorneys qualified to provide representation in felony cases in
9 the county, including, in a county with a population of 250,000 or
10 more, a separate appointment list of attorneys qualified to
11 represent a defendant with a mental illness; and

12 (ii) specify the objective qualifications
13 necessary for an attorney to be included on a [the] list under
14 Subparagraph (i); and

15 (B) may establish, if determined by the judges to
16 be appropriate, more than one appointment list graduated according
17 to the degree of seriousness of the offense, the attorneys'
18 qualifications, and whether representation will be provided in
19 trial court proceedings, appellate proceedings, or both.

20 (g) A countywide alternative program for appointing counsel
21 for indigent defendants in criminal cases is established by a
22 formal action in which two-thirds of the judges of the courts
23 designated under this subsection vote to establish the alternative
24 program. An alternative program for appointing counsel in
25 misdemeanor and felony cases may be established in the manner
26 provided by this subsection by the judges of the county courts,
27 statutory county courts, and district courts trying criminal cases

1 in the county. An alternative program for appointing counsel in
2 misdemeanor cases may be established in the manner provided by this
3 subsection by the judges of the county courts and statutory county
4 courts trying criminal cases in the county. An alternative program
5 for appointing counsel in felony cases may be established in the
6 manner provided by this subsection by the judges of the district
7 courts trying criminal cases in the county. In a county in which an
8 alternative program is established:

9 (1) the alternative program may:

10 (A) use a single method for appointing counsel or
11 a combination of methods; and

12 (B) use a multicounty appointment list using a
13 system of rotation; and

14 (2) the procedures adopted under Subsection (a) must
15 ensure that:

16 (A) attorneys appointed using the alternative
17 program to represent defendants in misdemeanor cases punishable by
18 confinement:

19 (i) meet specified objective
20 qualifications for that representation, which may be graduated
21 according to the degree of seriousness of the offense and whether
22 representation will be provided in trial court proceedings,
23 appellate proceedings, or both;

24 (ii) in a county with a population of
25 250,000 or more, meet specified objective qualifications to
26 represent a defendant with a mental illness; and

27 (iii) [~~(ii)~~] are approved by a majority of

1 the judges of the county courts and statutory county courts trying
2 misdemeanor cases in the county;

3 (B) attorneys appointed using the alternative
4 program to represent defendants in felony cases:

5 (i) meet specified objective
6 qualifications for that representation, which may be graduated
7 according to the degree of seriousness of the offense and whether
8 representation will be provided in trial court proceedings,
9 appellate proceedings, or both;

10 (ii) in a county with a population of
11 250,000 or more, meet specified objective qualifications to
12 represent a defendant with a mental illness; and

13 (iii) [~~(ii)~~] are approved by a majority of
14 the judges of the district courts trying felony cases in the county;

15 (C) appointments for defendants in capital cases
16 in which the death penalty is sought comply with the requirements of
17 Article 26.052; and

18 (D) appointments are reasonably and impartially
19 allocated among qualified attorneys.

20 SECTION 2. Not later than December 1, 2017, the judges of
21 the county courts, statutory county courts, and district courts in
22 each county with a population of 250,000 or more shall update an
23 appointment list or alternative program for appointing counsel, as
24 applicable, to comply with Articles 26.04(e) and (g), Code of
25 Criminal Procedure, as amended by this Act.

26 SECTION 3. This Act takes effect September 1, 2017.