

BILL ANALYSIS

Senate Research Center
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S.B. 583
By: Hinojosa
Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article 26.040, Code of Criminal Procedure, governs the priority appointment of public defenders in counties with such an office. Under current law, courts "shall give priority" in appointing a public defender's office unless "the court has reason to appoint other counsel." Courts throughout the state have, nevertheless, continued to favor appointing the private bar to represent indigent defendants at the expense of county taxpayers.

To facilitate the efficient use of public defenders' offices and taxpayer funds, S.B. 583 amends the Code of Criminal Procedure to:

- require judges to include priority appointment of such offices in their countywide procedures for timely and fairly appointing counsel (i.e. indigent defense plans);
- expressly include capital murder cases among the cases that require priority appointment;
- require a written finding of good cause on the record if the judge wants to appoint private counsel; and
- exclude appointment of a public defender's office if the appointment would be contrary to the office's written plan (e.g., the office does not handle that type of case) or the office is prohibited from accepting an appointment under Article 26.044(j) (e.g., conflict of interest or excessive caseload).

As proposed, S.B. 583 amends current law relating to the appointment of a local public defender's office to represent indigent defendants in criminal cases.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county is modified in SECTION 1 (Article 26.04, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 26.04, Code of Criminal Procedure, by amending Subsections (a) and (f), as follows:

- (a) Creates a new requirement that the procedures adopted by local rule by the judges of the county courts, statutory county courts, and district courts trying criminal cases in each county under this subsection provide for the priority appointment of a public defender's office as described by Subsection (f).
- (f) Requires the court or the courts' designee to give priority in appointing a public defender's office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case, in a county with a public defender's office. Deletes existing text related to creating or designating a public defender's office under Article 26.044 (Public Defender's Office). Makes nonsubstantive changes. Provides that the court is not required to appoint the public defender's office if:

(1) the court makes a finding of good cause on the record for appointing, rather than if the court has reason to appoint, other counsel;

(2) the appointment would be contrary to the office's written plan under Article 26.044;

(3) the office is prohibited from accepting the appointment under Article 26.044(j) (relating to conditions under which a public defender's office is prohibited from accepting an appointment under Article 26.04(f)); or

(4) creates this subdivision from existing text and makes no further changes.

SECTION 2. Effective date: September 1, 2019.