

## **BILL ANALYSIS**

Senate Research Center  
86R12000 EAS-F

S.B. 1293  
By: Zaffirini  
State Affairs  
4/14/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law requires legal representation for persons in mental health proceedings. When persons are indigent, most counties appoint private attorneys at an hourly rate to represent defendants in cases such as emergency detention, court ordered mental health treatment, and release proceedings. Appointing private attorneys is costly for the county and places a considerable administrative burden on judges and court personnel. Specifically, courts may be responsible for review and selection of qualified attorneys, tracking compliance with continuing legal education requirements, assigning cases fairly across eligible counsel, notifying attorneys of their appointment in time to contact the client within the statutorily prescribed period, resolving scheduling conflicts, and approving all attorney fee vouchers.

S.B. 1293 would authorize counties to employ salaried public defenders to represent indigent defendants in such cases. This option not only would be more cost-effective for counties, but also would improve representation of these defendants, as specialized public defenders would be more likely to understand the specifics of any given case.

As proposed, S.B. 1293 amends current law relating to the authority of the commissioners court of a county to employ attorneys as mental health public defenders and to the reimbursement of an attorney who represents an indigent proposed patient in certain mental health proceedings.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 571, Health and Safety Code, by adding Sections 571.0168 and 571.0169, as follows:

Sec. 571.0168. MENTAL HEALTH PUBLIC DEFENDERS. Authorizes the commissioners court of a county to employ attorneys as mental health public defenders to provide proposed patients with legal representation in a proceeding under Chapter 574 (Court-Ordered Mental Health Services).

Sec. 571.0169. REPRESENTATION OF PROPOSED PATIENT. Authorizes the court to appoint a mental health public defender described by Section 571.0168, a public defender other than a mental health public defender, or a private attorney to represent a proposed patient in any proceeding under Chapter 574.

SECTION 2. Amends Section 574.010(b), Health and Safety Code, as follows:

(b) Authorizes a court, if the court determines that the proposed patient is indigent, to authorize reimbursement to the attorney representing the proposed patient, rather than the attorney ad litem, for court-approved expenses incurred in obtaining expert testimony and to order the proposed patient's county of residence to pay the expenses.

SECTION 3. Effective date: September 1, 2019.