

By: Rose

H.B. No. 3539

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appointment of a local public defender's office to
3 represent indigent defendants in criminal cases.

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

5 SECTION 1. Article 26.04, Code of Criminal Procedure, is
6 amended by amending Subsections (a) and (f) to read as follows:

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

1 (f) In a county with [~~in which~~] a public defender's office
2 [~~is created or designated under Article 26.044~~], the court or the
3 courts' designee shall give priority in appointing that office to
4 represent the defendant in the criminal proceeding, including a
5 proceeding in a capital murder case. However, the court is not
6 required to appoint the public defender's office if:

7 (1) the court makes a finding of good cause on the
8 record for appointing [~~has reason to appoint~~] other counsel; [~~or~~]

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

11 (3) the office is prohibited from accepting the
12 appointment under Article 26.044(j); or

13 (4) a managed assigned counsel program also exists in
14 the county and an attorney will be appointed under that program.

15 SECTION 2. This Act takes effect September 1, 2019.