By: White H.B. No. 3903

A BILL TO BE ENTITLED

AN ACT

relating to a state defense attorney to represent certain defendants in proceedings before state appellate courts and coordinate continuing legal education for criminal defense attorneys.

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

SECTION 1. Section 22.301, Government Code, is amended to read as follows:

Sec. 22.301. SALARIES OF OFFICERS AND PERSONNEL OF APPELLATE COURTS. The salaries of the state prosecuting attorney, the state defense attorney, and the clerks, other officers, and employees of the supreme court, court of criminal appeals, and courts of appeals shall be determined by the legislature in its appropriation acts for the support of the judiciary.

SECTION 2. The heading to Chapter 42, Government Code, is amended to read as follows:

CHAPTER 42. STATE ATTORNEYS [~~PROSECUTING ATTORNEY~~]

SECTION 3. The heading to Section 42.001, Government Code, is amended to read as follows:

Sec. 42.001. STATE PROSECUTING ATTORNEY: OFFICE; QUALIFICATIONS.

SECTION 4. Chapter 42, Government Code, is amended by adding Section 42.0015 to read as follows:

Sec. 42.0015. STATE DEFENSE ATTORNEY: OFFICE;

QUALIFICATIONS. (a) The court of criminal appeals shall appoint a state defense attorney to represent certain criminal defendants in proceedings before the court, subject to Subsection (c). The state defense attorney may represent criminal defendants at any stage of a criminal case before a state court of appeals or in any proceeding that may potentially be heard by the court of criminal appeals.

(b) A person appointed to the office of state defense attorney must have at least five years' experience as an attorney in the practice of criminal law in this state and have the qualifications described in Section 78.004(b).

(c) A state defense attorney must be chosen from the list of names received by the committee established in accordance with Section 42.008.

SECTION 5. Section 42.002, Government Code, is amended to read as follows:

Sec. 42.002. OATH; TERM. (a) The state prosecuting attorney and the state defense attorney must take the oath required of state officials.

(b) The state prosecuting attorney and the state defense attorney each serve [~~serves~~] a two-year term and continue [~~continues~~] to serve until a successor is appointed and has qualified.

SECTION 6. Section 42.003, Government Code, is amended to read as follows:

Sec. 42.003. ASSISTANT [~~STATE PROSECUTING~~] ATTORNEYS. The state attorneys appointed under this chapter [~~prosecuting attorney~~] may appoint one or more assistant [~~state prosecuting~~]

attorneys. An assistant [~~state prosecuting~~] attorney appointed under this chapter has the same duties and serves the same term of office as the state prosecuting attorney or state defense attorney who appointed the assistant.

SECTION 7. Section 42.004, Government Code, is amended to read as follows:

Sec. 42.004. REMOVAL. The court of criminal appeals may remove state [~~prosecuting~~] attorneys appointed under this chapter from office for good cause.

SECTION 8. Chapter 42, Government Code, is amended by adding Sections 42.006, 42.007, and 42.008 to read as follows:

Sec. 42.006. COOPERATION WITH OTHER CRIMINAL DEFENSE ATTORNEYS. (a) The state defense attorney on request of a defendant may assist a criminal defense attorney or public defender in representing a defendant before an appellate court in any proceeding that may potentially be heard by the court of criminal appeals.

(b) A criminal defense attorney or public defender may assist the state defense attorney in representing the defendant before the court of criminal appeals.

(c) The state defense attorney may decline to represent a defendant for any ethically appropriate reason, including the state defense attorney's lack of financial resources to adequately represent the defendant or belief that the defendant's issues on appeal lack merit.

Sec. 42.007. COORDINATION OF CONTINUING LEGAL EDUCATION FOR CRIMINAL DEFENSE ATTORNEYS. (a) The state defense attorney may

coordinate the continuing legal education of criminal defense attorneys and public defenders.

(b) The state defense attorney shall consult with the court of criminal appeals to determine appropriate continuing legal education curriculum for criminal defense attorneys and public defenders.

Sec. 42.008. COMMITTEE TO RECOMMEND QUALIFIED STATE DEFENSE ATTORNEY. (a) The committee to recommend a qualified state defense attorney is established.

(b) The committee is composed of the members serving on the capital and forensic writs committee appointed under Section 78.003.

(c) When a vacancy exists in the office of state defense attorney, the committee shall provide to the court of criminal appeals a list of the names of at least two and not more than five persons the committee recommends for the office.

(d) Each person the committee recommends must meet the qualifications established by Section 42.0015(b).

SECTION 9. This Act takes effect September 1, 2019.