

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 1, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB3827** by Sherman, Sr. (Relating to the procedures for appointing counsel to represent indigent defendants in certain post-conviction proceedings in capital cases.), **As Introduced**

**The fiscal impact to the state cannot be determined due to the number of capital habeas cases that may be represented by private assigned counsel instead of the Office of Capital and Forensic Writs being unknown.**

The bill would amend the Code of Criminal Procedure to end mandatory appointment of counsel employed by the Office of Capital and Forensic Writs (OCFW) for habeas representation in death penalty cases and allow a court to appoint private counsel.

Article 11.071, Section 2A of the Code of Criminal Procedure, requires the state to reimburse the county up to \$25,000 for counsel other than counsel employed by OCFW representing defendants in capital habeas cases. The fiscal impact to the state cannot be determined due to the number of capital habeas cases that may be represented by private assigned counsel instead the OCFW being unknown.

The bill would take effect September 1, 2019.

**Local Government Impact**

Counties in which judges appoint counsel other than the OCFW will have to pay attorney fees and expenses in excess of \$25,000. The fiscal impact to counties cannot be determined due to the number of capital habeas cases that may be represented by private assigned counsel instead the OCFW being unknown.

**Source Agencies:**        212 Office of Court Administration, Texas Judicial Council, 215 Office of Capital and Forensic Writs

**LBB Staff:** WP, LBO, MW, DA