

By: Collier

H.B. No. 277

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of counsel to represent indigent defendants in criminal cases.

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

SECTION 1. Articles 1.051(c) and (j), Code of Criminal Procedure, are amended to read as follows:

(c) An indigent defendant is entitled to have an attorney appointed to represent the defendant [~~him~~] in any adversary judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation. A defendant's appearance before a magistrate under Article 15.17 is an initial appearance that constitutes the initiation of adversarial judicial proceedings against the defendant and, for an indigent defendant, requires the appointment of counsel in accordance with this article. Subject to Subsection (c-1), [~~if an indigent defendant is entitled to and requests appointed counsel and~~] if adversarial judicial proceedings have been initiated against an indigent [~~the~~] defendant who has requested appointment of counsel, or if the interests of justice require the appointment of counsel, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county in which the defendant is arrested shall appoint counsel as soon as possible, but not later than:

1           (1) the end of the third working day after the date on  
2 which the court or the courts' designee receives the defendant's  
3 request for appointment of counsel, if the defendant is arrested in  
4 a county with a population of less than 250,000; or

5           (2) the end of the first working day after the date on  
6 which the court or the courts' designee receives the defendant's  
7 request for appointment of counsel, if the defendant is arrested in  
8 a county with a population of 250,000 or more.

9           (j) Notwithstanding any other provision of this article  
10 ~~[section]~~, if an indigent defendant is released from custody prior  
11 to the appointment of counsel under this article ~~[section]~~, if the  
12 defendant has not been taken before a magistrate under Article  
13 15.17, and if adversarial judicial proceedings have not otherwise  
14 been initiated against the defendant, the court in which the  
15 defendant's case is pending shall provide a method by which the  
16 defendant may request that counsel be appointed not later than the  
17 end of the first working day after any subsequent arrest or citation  
18 of the defendant. If a defendant is entitled to and requests  
19 appointed counsel before ~~[appointment of counsel is not required~~  
20 ~~until]~~ the defendant's first court appearance for the subsequent  
21 arrest or citation, the court or the courts' designee authorized  
22 under Article 26.04 to appoint counsel for indigent defendants in  
23 the county in which the defendant is arrested or cited shall appoint  
24 counsel as soon as possible to ensure the defendant is represented  
25 by counsel at the first court appearance ~~[or when adversarial~~  
26 ~~judicial proceedings are initiated, whichever comes first]~~.

27           SECTION 2. The change in law made by this Act applies only

1 to a person who is arrested on or after the effective date of this  
2 Act. A person arrested before the effective date of this Act is  
3 governed by the law in effect on the date the person was arrested,  
4 and the former law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2021.