

BILL ANALYSIS

Senate Research Center

H.B. 409
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently the Texas Indigent Defense Commission (TIDC) includes judges, a defense lawyer, and a chief public defender. A representative from a managed assigned counsel (MAC) program, however, is not included even though TIDC has many cases that involve indigent defendants who are represented by attorneys from MAC programs.

H.B. 409 includes the crucial perspective of MAC program attorneys in TIDC board operations by expanding board membership to include a director of a MAC program. What's more, the bill maintains an odd number of board members and the current proportion of judicial representation by adding another member who is a justice of the peace, municipal court judge, or appointed magistrate. The bill also requires a MAC director member and chief public defender to recuse themselves for votes regarding an award of funds to a county that the MAC program serves.

H.B. 409 amends current law relating to the governance and administration of the Texas Indigent Defense Commission and to certain disclosures made in relation to the provision of funding for indigent defense services.

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 Sections 79.014(a) and (b), Government Code, as follows:

(a) Requires the governor to appoint with the advice and consent of the senate seven members, rather than five members, of the governing board of the Texas Indigent Defense Commission (board) as follows:

(1)-(3) makes no changes to these subdivisions;

(4) one member who is a chief public defender in this state, rather than one member who is a chief public defender in this state or the chief public defender's designee who is required to be an attorney employed by the public defender's office;

(5) makes a nonsubstantive change to this subsection;

(6) one member who is either:

(A) a director of a managed assigned counsel program in this state; or

(B) a justice of the peace, municipal court judge, or appointed magistrate under Article 2.09 (Who Are Magistrates), Code of Criminal Procedure, whose regular duties include presiding over hearings under Article 15.17 (Duties of Arresting Officer and Magistrate), Code of Criminal Procedure; and

(7) one member who has a demonstrated expertise in indigent defense issues.

(b) Provides that the board members serve staggered terms of two years, with three members' terms, rather than two members' terms, expiring February 1 of each odd-numbered year and four members' terms, rather than three members' terms, expiring February 1 of each even-numbered year.

SECTION 2. Amends Sections 79.016(a) and (c), Government Code, as follows:

(a) Requires a board member who is a chief public defender or a director of a managed assigned counsel program for an entity, rather than a chief public defender or an attorney employed by an entity, that applies for funds under Section 79.037 (Technical Support; Grants) to disclose that fact before a vote by the board regarding an award of funds to that entity and prohibits the board member from participating in that vote.

(c) Prohibits the Texas Indigent Defense Commission from awarding funds under Section 79.037 to an entity served by a chief public defender or a director of a managed assigned counsel program, rather than chief public defender or other attorney, who fails to make a disclosure to the board as required by Subsection (a).

SECTION 3. Effective date: September 1, 2023.