

## **BILL ANALYSIS**

C.S.H.B. 4915  
By: Moody  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.H.B. 4915 is an omnibus bill to improve the state's indigent defense system that implements certain recommendations made by the Texas Indigent Defense Commission. The bill seeks to streamline responsibilities and functions of managed assigned counsel programs, reduce inefficiencies in post-conviction litigation for public defenders, alleviate confusion in magistrate proceedings, and expand access to counsel during these processes, among other provisions.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4915 amends the Code of Criminal Procedure, Government Code, Tax Code, and Transportation Code to set out and revise provisions regarding legal representation of indigent persons in Texas and proceedings before a magistrate, including the appointment of counsel for an indigent defendant.

#### **Required Court-Appointed Representation for Certain Writs of Habeas Corpus**

C.S.H.B. 4915 expands the conditions under which a convicting court is required to appoint an attorney to represent an eligible indigent defendant for purposes of filing an application for a writ of habeas corpus or representing the defendant in a proceeding based on such an application, which currently include if the state represents to the court that an eligible defendant is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the Texas Court of Criminal Appeals or the U.S. Supreme Court, by requiring the court to do so if the state represents to the court that the defendant has a potentially meritorious claim for relief on a writ of habeas corpus from the judgment that the court determines is likely to provide relief, including a claim that the defendant:

- is or may be actually innocent of the offense;
- is or may be guilty of only a lesser offense;
- was or may have been convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court; or
- was or may have been convicted or sentenced in violation of the Texas or U.S. Constitution.

The bill includes investigation of the potentially meritorious claim as a purpose of that required appointment. These bill provisions apply regardless of whether the offense for which the applicant is in custody was committed before, on, or after the bill's effective date.

### **Duties of an Arresting Officer and Magistrate**

C.S.H.B. 4915 revises statutory provisions relating to the duties of an arresting officer and magistrate as follows:

- replaces the authorization for the image of an arrested person to be presented to the magistrate by means of a videoconference with an authorization for the image and sound of the arrested person to be presented to the magistrate by those means;
- clarifies that the requirement for the magistrate to inform the person arrested of any filed affidavit applies to any affidavit filed with the accusation;
- revises the requirement for a magistrate to inform the person arrested of the following information by specifying that the magistrate do so in clear language, either in person or through a videoconference, as specified under current law for certain other information the magistrate is required to provide:
  - the person's right not to make a statement;
  - the fact that any statement the person makes may be used against the person;
  - the person's right to request the appointment of counsel if the person cannot afford counsel; and
  - the procedures for requesting appointment of counsel;
- requires the magistrate to do the following:
  - if the proceeding is conducted through a videoconference, ensure that the arrested person is able to connect to and understand the image and sound of the videoconference;
  - if the magistrate has reasonable cause to believe that the arrested person has a mental illness or is a person with an intellectual disability, follow the procedures under statutory provisions relating to the early identification of defendants suspected of having mental illness or intellectual disability; and
  - if the magistrate is unable to ensure that the arrested person is able to understand and participate in the proceeding, take the following actions:
    - if the magistrate has appointing authority, appoint counsel for the person; or
    - if the magistrate does not have appointing authority, notify the appointing authority of the person's inability to understand and participate in the proceeding;
- with respect to the requirement for the magistrate to ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time, specifies that time to be the same time the arrested person is informed of their rights by the magistrate;
- revises the provision requiring the magistrate, if the arrested person is indigent and requests appointment of counsel but the magistrate is not authorized to appoint counsel, to transmit, or cause to be transmitted to the court or to the courts' designee authorized to appoint counsel in the county, the forms requesting the appointment of counsel by specifying that those forms be the necessary forms for requesting and ruling on the appointment of counsel;
- removes the requirement for the requisite record of the communication between the arrested person and the magistrate to be preserved until the earlier of the following dates:
  - the date on which the pretrial hearing ends; or
  - the 91st day after the date on which the record is made if the person is charged with a misdemeanor or the 120th day after the date on which the record is made if the person is charged with a felony; and
- requires instead that such a record, as well as the requisite record of the magistrate informing the person of their right to request appointment of counsel, the magistrate asking the person whether they want to do so, and whether the person requested such an

appointment, be retained for at least two years after final judgment is entered in the case or the proceedings are otherwise terminated.

These provisions apply only to a person who is arrested on or after the bill's effective date. A person arrested before the bill's effective date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

### **Procedures for Appointing Counsel to Represent Indigent Persons**

C.S.H.B. 4915 authorizes an attorney to be appointed to represent an indigent person for the sole purpose of providing counsel in relation to that person's appearance before a magistrate as required under statutory provisions relating to an arrest without a warrant, an arrest under a warrant, or an arrest under a warrant for an out-of-county offense, provided that funds are appropriated by a county for this purpose. The bill authorizes the attorney to represent the person in subsequent proceedings of that case, only if appointed for that purpose under the other provisions establishing procedures for appointing counsel. These provisions of the bill apply only to a person who is arrested on or after the bill's effective date. A person arrested before the bill's effective date is governed by the law in effect on the date the person was arrested, and the former law is continued in effect for that purpose.

### **Public Defender's Office**

C.S.H.B. 4915 authorizes an attorney engaged in the private practice of criminal law to be employed by a public defender's office on a part-time basis for the sole purpose of providing counsel in relation to an indigent person's appearance before a magistrate as required under statutory provisions relating to an arrest without a warrant, an arrest under a warrant, or an arrest under a warrant for an out-of-county offense. The bill removes the following provisions:

- a requirement for the public defender's office to report the results of an investigation by the office regarding the financial condition of a person the office is appointed to represent to the appointing judge; and
- an authorization for the judge to hold a hearing to determine if the person is indigent and entitled to representation under provisions relating to a public defender's office.

### **Managed Assigned Counsel Program**

C.S.H.B. 4915 revises the meaning of "managed assigned counsel program" for purposes of statutory provisions relating to such programs as follows:

- replaces the specification that such a program is operated with public funds in the manner described in the definition with a specification that the program is a program to perform delegated judicial functions using public funds that is operated in that manner; and
- includes the following among the purposes for such a program's operation:
  - appointing or providing an investigator, expert, or other support services for appointed counsel and their clients;
  - approving a payment to an attorney, investigator, or expert, and for other reasonable and necessary expenses of appointed counsel under specified statutory provisions, including a payment for legal representation in a related matter for the purpose of ensuring the right to counsel in the primary matter; and
  - overseeing and improving the quality of representation provided to clients by attorneys appointed under statutory provisions relating to managed assigned counsel programs.

C.S.H.B. 4915 includes the following among the contents of a managed assigned counsel program's written plan of operation:

- a policy describing the circumstances under which the program may allow appointed counsel to provide representation in a related matter for the purpose of ensuring the right to counsel in the primary matter;

- a policy describing the circumstances under which an attorney may withdraw from a case and the circumstances under which good cause is established to remove an attorney from a case; and
- procedures the program will use to maintain the confidentiality of data related to clients whose information is held in the juvenile justice system, including which staff may access that data.

With respect to the authorization for a court to replace an attorney appointed by a managed assigned counsel program under certain circumstances, the bill requires the notice and reason for the replacement of counsel to be documented in the same manner as the original appointment.

C.S.H.B. 4915 further revises statutory provisions relating to managed assigned counsel programs by doing the following:

- authorizing a managed assigned counsel program to receive information necessary to perform the program's functions under provisions relating to such programs, including materials that are subject to attorney-client privilege, subject to attorney work-product privilege, or otherwise protected by constitutional or statutory rights of a client represented by an attorney appointed under those provisions;
- establishing that the aforementioned information and materials and information and materials related to a managed assigned counsel program's appointment or provision of an investigator, expert, or other support services for appointed counsel and their clients are confidential and not subject to disclosure; and
- requiring a managed assigned counsel program, the attorneys appointed under provisions relating to such programs, and other individuals, as applicable, to maintain the confidentiality of any information or materials described by these provisions.

### **Compensation of a Counsel Appointed to Represent a Defendant**

C.S.H.B. 4915 specifies that for purposes of compensation for a counsel, other than an attorney with a public defender's office or an attorney employed by the office of capital and forensic writs, appointed to represent a defendant in a criminal proceeding, reasonable and necessary time spent out of court on the case includes time spent traveling to perform legal services outside the county where the case is pending.

C.S.H.B. 4915 provides the option for the designee of a managed assigned counsel program's director to perform certain functions relating to the approval of payments made under provisions relating to the compensation of a counsel appointed to represent a defendant as an alternative to the director performing those functions.

C.S.H.B. 4915 expands the types of expenses that must be reimbursed to a counsel in a noncapital case, other than an attorney with a public defender's office, appointed to represent a defendant who is confined in a correctional facility located more than 50 miles from the court in which the defendant's proceeding is pending by including expenses for the following:

- travel to the defendant's location for a confidential communication and food and lodging related to that travel; and
- any costs associated with remotely entering into a confidential communication with the defendant.

C.S.H.B. 4915 establishes that its provisions relating to the compensation of a counsel appointed to represent a defendant apply only to expenses incurred on or after the bill's effective date.

### **Indigent Inmate Defense**

C.S.H.B. 4915 revises statutory provisions relating to indigent inmate defense by doing the following:

- giving a court the option, on determining that a conflict of interest could arise from the use of an attorney provided by the Texas Board of Criminal Justice as legal representation for an indigent inmate, of appointing the public defender's office as an alternative to appointing another attorney;
- clarifying that if the public defender's office is so appointed, the inmate's legal defense is subject to provisions governing such offices;
- requiring a public defender's office appointed for this purpose to certify to the court the amount of expenses incurred in the representation;
- requiring the court to submit that certified amount to the comptroller of public accounts for reimbursement of the county by the state; and
- requiring the state to reimburse a county for any such certified expenses.

### **Access to Criminal History Record Information for Managed Assigned Counsel Program**

C.S.H.B. 4915 entitles a managed assigned counsel program to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a criminal case in which an attorney has been appointed by the managed assigned counsel program. The bill prohibits DPS from charging a fee for providing criminal history record information to a managed assigned counsel program. The bill defines "managed assigned counsel program" for purposes of these provisions by reference to provisions governing such a program under the Code of Criminal Procedure.

### **Confidentiality of Certain Home Address Information**

C.S.H.B. 4915 extends the confidentiality protections for home address information in property tax appraisal records to an employee of a public defender's office or an employee of a managed assigned counsel program. The bill defines such an office and program for this purpose by reference to provisions governing those entities under the Code of Criminal Procedure.

### **Permitted Disclosures of Certain Personal Information**

C.S.H.B. 4915 establishes that provisions of the Motor Vehicle Records Disclosure Act relating to the permitted disclosure of certain personal information do not prohibit the disclosure of a person's photographic image to a private investigator licensed under the Private Security Act who is employed by a public defender's office for an official purpose.

### **Procedural Provision**

C.S.H.B. 4915 establishes that, to the extent of any conflict, the bill prevails over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4915 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits provisions from the introduced relating to the following:

- education loan repayment assistance for certain public defense attorneys;
- the establishment of the Texas Public Defense Internship and Fellowship Program through which grants and awards are made for the purpose of providing, with the

- assistance of students enrolled at and recent graduates of public and private institutions of higher education, legal representation to indigent persons under certain state law; and
- the dedication of a portion of the mixed beverage gross receipts tax and the mixed beverage sales tax to the fair defense account.