

BILL ANALYSIS

C.S.S.B. 1057
By: Hinojosa
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that rural counties, particularly those with high poverty rates and without an adequate tax base, may experience financial difficulty in complying with indigent defense standards. The parties contend that this financial difficulty is aggravated by the dearth of lawyers available in those counties to represent clients charged with serious crimes. C.S.S.B. 1057 seeks to address this situation by amending the law relating to funds for indigent defense services.

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 rulemaking authority is expressly granted to the Texas Indigent Defense Commission in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 1057 amends the Government Code to require the Texas Indigent Defense Commission to determine for each county which of the following entities are eligible to receive grant funds distributed by the commission for the provision of indigent defense services in the county: the county, a law school's legal clinic or program that provides indigent defense services in the county, and a regional public defender that provides indigent defense services in the county. The bill conditions the commission's authority to distribute grant funds to a regional public defender's office on the office serving two or more counties; each county that enters an agreement to create or designate and to jointly fund the office satisfying the commission that the county will timely provide funds to the office for the duration of the grant for at least half of the office's operational costs; each participating county by local rule adopting and submitting to the commission guidelines detailing the types of cases to be assigned to the office; and each participating county and the applicable office agreeing in writing to a method that the commission determines to be appropriate to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

C.S.S.B. 1057 requires the commission to select, by rule or under a contract with a regional public defender's office, a method for the payment of costs associated with the defense of cases assigned to an office that remain so pending, which may include any combination of the following: allowing an office to establish and maintain a reserve of funds sufficient to cover anticipated costs in an amount determined appropriate by the commission, guaranteeing all or part of the costs to be paid, or establishing a schedule of fees for the payment of costs in the manner provided by statutory provisions regarding the compensation of counsel appointed to

represent a defendant in a criminal proceeding. The bill requires any change in that schedule of fees to first be approved by the commission. The bill requires a regional public defender's office to collect each participating county's portion of the operational costs as that portion is provided by the county to the office.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1057 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Sections 79.016(a) and (c), Government Code, are amended.

SECTION 2. Section 79.037, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (e), (f), (g), and (h) to read as follows:

(a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their indigent defense systems; and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) to assist a county [~~counties~~] in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

(A) the county;

(B) a law school's legal clinic or program that provides indigent defense services in the county; and

(C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county; and

(3) monitor each entity [~~county~~] that receives a grant under Subdivision (2) and enforce compliance [~~by the county~~] with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the entity [~~county~~].

(b) The commission shall determine for each county the entity or entities within the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Section 79.037, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (e), (f), (g), and (h) to read as follows:

(a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their indigent defense systems; and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) to assist a county [~~counties~~] in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

(A) the county;

(B) a law school's legal clinic or program that provides indigent defense services in the county; and

(C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county; and

(3) monitor each entity [~~county~~] that receives a grant under Subdivision (2) and enforce compliance [~~by the county~~] with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the entity [~~county~~].

(b) The commission shall determine for each county the entity or entities within the

county that are eligible to receive [distribute] funds for the provision of indigent defense services under [as required by] Subsection (a)(2). The determination must be made based on the entity's:

(1) [a county's] compliance with standards adopted by the board; and

(2) [the county's] demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed [to counties] in a fair manner.

(e) The commission may distribute funds under Subsection (a)(2) to a regional public defender's office formed under Article 26.044, Code of Criminal Procedure, if:

(1) the regional public defender's office serves two or more counties, each with a population of less than 100,000;

(2) each county that enters an agreement to create or designate and to jointly fund the regional public defender's office satisfies the commission that the county will timely provide funds to the office for at least half of the office's operational costs for the duration of the grant;

(3) each participating county by local rule adopts and submits to the commission guidelines under Article 26.04(f), Code of Criminal Procedure, detailing the types of cases to be assigned to the office; and

(4) each participating county and the regional public defender's office agrees in writing to a method that the commission determines to be appropriate under Subsection (f) to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

(f) The commission shall select, by rule or under a contract with a regional public defender's office, a method for the payment of costs under Subsection (e)(4), which may include any combination of the following:

(1) allowing an office to establish and maintain a reserve of funds sufficient to cover anticipated costs, in an amount determined appropriate by the commission;

(2) guaranteeing all or part of the costs to be paid; or

(3) establishing a schedule of fees for the

county that are eligible to receive [distribute] funds for the provision of indigent defense services under [as required by] Subsection (a)(2). The determination must be made based on the entity's:

(1) [a county's] compliance with standards adopted by the board; and

(2) [the county's] demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed [to counties] in a fair manner.

(e) The commission may distribute funds under Subsection (a)(2) to a regional public defender's office formed under Article 26.044, Code of Criminal Procedure, if:

(1) the regional public defender's office serves two or more counties;

(2) each county that enters an agreement to create or designate and to jointly fund the regional public defender's office satisfies the commission that the county will timely provide funds to the office for the duration of the grant for at least half of the office's operational costs;

(3) each participating county by local rule adopts and submits to the commission guidelines under Article 26.04(f), Code of Criminal Procedure, detailing the types of cases to be assigned to the office; and

(4) each participating county and the regional public defender's office agree in writing to a method that the commission determines to be appropriate under Subsection (f) to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

(f) The commission shall select, by rule or under a contract with a regional public defender's office, a method for the payment of costs under Subsection (e)(4), which may include any combination of the following:

(1) allowing an office to establish and maintain a reserve of funds sufficient to cover anticipated costs, in an amount determined appropriate by the commission;

(2) guaranteeing all or part of the costs to be paid; or

(3) establishing a schedule of fees for the

payment of costs in the manner provided by Article 26.05, Code of Criminal Procedure.

(g) Any change to a schedule of fees established under Subsection (f)(3) must first be approved by the commission.

(h) A regional public defender's office shall collect each participating county's portion of the operational costs as that portion is provided by the county to the office.

SECTION 3. This Act takes effect September 1, 2015.

payment of costs in the manner provided by Article 26.05, Code of Criminal Procedure.

(g) Any change to a schedule of fees established under Subsection (f)(3) must first be approved by the commission.

(h) A regional public defender's office shall collect each participating county's portion of the operational costs as that portion is provided by the county to the office.

SECTION 3. Same as engrossed version.