

- SUBJECT:** Authority of public defenders to refuse indigent defense clients
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody, Schaefer, Toth
0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Yannis Banks, Texas NAACP; Rebecca Bernhardt, Texas Defender Service; Victor Cornell, American Civil Liberties Union of Texas; Ana Yanez Correa, Texas Criminal Justice Coalition)
Against — None
On — (*Registered, but did not testify:* Jim Bethke, Texas Indigent Defense Commission; Alex Bunin, Harris County Public Defender)
- BACKGROUND:** Code of Criminal Procedure, art. 26.044 allows a public defender’s office to not accept an indigent defense appointment if:
- a conflict of interest exists that has not been waived by the client;
 - the public defender’s office has insufficient resources to provide adequate representation for the defendant;
 - the public defender’s office is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or
 - the public defender’s office shows good cause for not accepting the appointment.
- DIGEST:** HB 3207 would allow a public defender’s office to not accept an indigent defense appointment if the acceptance of the appointment would violate the maximum allowable caseloads established at the public defender’s office.
The bill also would require the chief public defender to file with the court

a written statement that identifies any reason for refusing an indigent defense appointment. The court would determine whether the chief public defender had demonstrated adequate good cause for refusing the appointment and would include the statement with the case records.

Under HB 3207 a chief public defender would not be terminated, removed, or sanctioned for refusing in good faith to accept an appointment.

The act would take effect on September 1, 2013.