

SUBJECT: Counsel for indigent defendants with warrant, arrest in different counties

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — John Dahill, Texas Conference of Urban Counties; Rebecca Bernhardt, Texas Fair Defense Project; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Patricia Cummings, Texas Criminal Defense Lawyers Association; Sarah Pahl, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 1.051, governs the appointment of legal counsel for indigent criminal defendants. Art. 1.051(c) states that if certain conditions are met, courts shall appoint counsel within specified time frames. In some cases, a warrant is issued for someone's arrest in one county, but the defendant is arrested and jailed in another county. In these situations, it is unclear which county is responsible for appointing counsel if the defendant is indigent.

DIGEST: CSHB 2525 would establish a process for determining the responsibility for appointing counsel for indigent defendants when a warrant was issued for an arrest in one county and the defendant was arrested and jailed in another county.

If an indigent defendant were arrested under a warrant issued in a county other than the county in which the arrest was made, a court in the county that issued the warrant would be required to appoint counsel within the current time frames, regardless of whether the defendant was present in the county issuing the warrant. The appointment would be required even if

adversarial judicial proceedings had not yet been initiated in the county issuing the warrant.

However, if the defendant had not been transferred or released to the county issuing the warrant before the 11th day after arrest and if counsel had not already been appointed by the arresting county, a court in the arresting county would have to immediately appoint counsel to represent the defendant for matters under Code of Criminal Procedure, ch. 11, which deals with writs of habeas corpus, and chapter 17, which deals with bail. This appointment would occur regardless of whether adversarial proceedings had been initiated in the arresting county.

If the arresting county appointed counsel in these cases, that county could seek reimbursement from the county that issued the warrant for the costs paid for the appointed counsel.

The bill would take effect September 1, 2015, and would apply only to a person arrested on or after that date.