BILL ANALYSIS

Senate Research Center

H.B. 1498
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Jurisprudence
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Enrolled

BACKGROUND

The Professional Prosecutors Act prohibits the private practice of law by those Texas prosecutors subject to the Act. The private practice of law is not defined in the Act and, therefore, it is unclear whether pro bono legal services to the poor are included. Despite the fact that the language is vague and the Act's scope is limited to certain prosecutors, this provision is often interpreted as a bar to participation in pro bono legal services by district and county attorneys and their assistant attorneys, even those who are not specifically subject to the Act.

PURPOSE

As enrolled, H.B. 1498 authorizes county, district, and criminal district attorneys and their assistants to provide pro bono legal services to the poor.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 41A, Government Code, by adding Section 41.014, as follows:

Sec. 41.014. PRO BONO LEGAL SERVICES. (a) Defines "pro bono legal services to the indigent" and "prosecutor."

(b) Authorizes a prosecutor to provide pro bono legal services to the indigent if providing the services does not interfere with the prosecutor's official duties or regularly compensated hours of employment.

(c) Provides that providing pro bono legal services to the indigent as authorized by this section is not within the scope of employment of the prosecutor, and the state or a political subdivision of the state is not liable for damages that result from providing the services.

(d) Provides that providing pro bono legal services to the indigent does not constitute the private practice of law.

SECTION 2. Effective date: September 1, 1993.

SECTION 3. Emergency clause.