

BILL ANALYSIS

Senate Research Center

S.B. 1080
By: Ellis
Criminal Justice
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As Filed

DIGEST

Currently, the law requires defendants to be advised that they have a right to request the appointment of counsel. However, it does not require that they be told how to exercise this right and when defendants may first consult with counsel. Appointment procedures vary widely among counties and indigent defendants are usually ignorant of such procedures. Defendants may wait months in jail before speaking with a defense attorney. Additionally, Texas does not collect information on how indigent defense systems operate in each of its 254 counties. Accurate information about these systems will enable local and state policy makers to make informed decisions about how to maximize efficient, effective use of the money spent annually on indigent defense by Texas counties. Finally, only certain counties are authorized to establish a public defender system as its primary means of providing indigent defense services. This bill will provide additional regulations regarding the defense and pretrial information gathering standards for indigent people who are accused of crime.

PURPOSE

As proposed, S.B. 1080 provides additional regulations regarding the defense and pretrial information gathering standards for indigent people who are accused of crime.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 1.051(c), Code of Criminal Procedure, to require a court, if an indigent defendant remains incarcerated pending trial after a hearing under Article 15.17 of this code, to appoint counsel within a certain time period. Provides that a failure to appoint counsel within the required time period is harmless error unless the failure is intentional or the defendant established that the failure resulted in prejudice to the defendant.

SECTION 2. Amends Article 15.17(a), Code of Criminal Procedure, to require a magistrate to orally inform an arrested person of the procedures used in the county to appoint counsel for indigent defendants and to provide the person with a written statement containing certain information in a language understood by the person.

SECTION 3. Amends Chapter 26, Code of Criminal Procedure, by adding Article 26.049, as follows:

Art. 26.049. COUNTY AUTHORITY TO APPOINT PUBLIC DEFENDER; COOPERATIVE EFFORTS. Sets forth regulations regarding the appointment of a public defender by a commissioners court. Provides that this article does not apply to the appointment of a public defender under Articles 26.042-26.048, 26.050, or 26.058 of this chapter.

SECTION 4. Amends Chapter 72C, Government Code, by adding Section 72.028, as follows:

Sec. 72.028. INDIGENT DEFENSE STATISTICS. Sets forth regulations regarding a report on the legal services provided by a county to indigent defendants.

SECTION 5. Effective date: September 1, 1997. Requires a county auditor or county judge to send to the Office of Court Administration the first report required by Section 72.028, Government Code, as added by this Act, on or before September 30, 1998.

SECTION 6. Emergency clause.