BILL ANALYSIS

Senate Research Center

S.B. 1789
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Intergovernmental Relations
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Enrolled

DIGEST AND PURPOSE

Currently, Randall County appoints one or more practicing attorneys to represent a defendant who is indigent. S.B. 1789 authorizes Randall County to create a public defender's office to provide representation to indigent defendants.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 26, Code of Criminal Procedure, by adding Article 26.053, as follows:

Art. 26.053. PUBLIC DEFENDER IN RANDALL COUNTY. (a) Authorizes the Commissioners Court of Randall County to appoint an attorney to serve as a public defender. Provides that the public defender serves at the pleasure of the commissioners court.

(b) Provides that to be eligible for appointment as a public defender, a person must be a member of the State Bar of Texas.

(c) Authorizes the public defender, with the approval of the commissioners court, to employ assistant public defenders, investigators, secretaries, and other necessary personnel. Requires an assistant public defender to be a licensed attorney and authorizes an assistant public defender to perform the duties of a public defender under this article.

(d) Provides that a public defender's office consists of the public defender and the personnel employed by the public defender under Subsection (c).

(e) Entitles a public defender to receive an annual salary in an amount set by the commissioners court. Provides that Chapter 152B (Amount of Compensation, Expenses, and Allowances Generally Applicable), Local Government Code, applies to the compensation of personnel and the payment of office expenses in the public defender's office.

(f) Prohibits a public defender or an assistant public defender, except as authorized by this article, from engaging in the private practice of law or accepting anything of value not authorized by this article for services rendered under this article.

(g) Authorizes the commissioners court to remove a public defender or an assistant public defender who violates Subsection (f).

(h) Requires the public defender or an assistant public defender to represent each indigent person who is:

(1) charged with a criminal offense in Randall County punishable by confinement or imprisonment;

(2) a minor who is a party to a juvenile delinquency proceeding in the county; or

(3) entitled to representation under Chapter 462 (Treatment of Chemically Dependent Persons), Health and Safety Code, or Title 7C (Texas Mental Health Code) or 7D (Persons With Mental Retardation Act), Health and Safety Code.

(i) Authorizes the judge, if at any stage of the proceeding the judge determines that a conflict of interest exists between the public defender and the indigent person, to appoint another attorney to represent the person. Requires the attorney to be licensed to practice law in this state and entitles the attorney to the compensation provided by Article 26.05.

(j) Requires the public defender's office to investigate the financial condition of any person the public defender is appointed to represent. Requires the public defender's office to report the results of the investigation to the appointing judge. Authorizes the judge to hold a hearing to determine if the person is indigent and entitled to representation under this article.

(k) Provides that, except for the provisions relating to daily appearance fees, Article 26.05 applies to the public defender and an assistant public defender.

(l) Authorizes the commissioners court to accept gifts and grants from any source to finance an adequate and effective public defender program.

SECTION 2. Effective date: upon passage or September 1, 2001.