

BILL ANALYSIS

Senate Research Center
80R3410 PEP-D

S.B. 306
By: Harris
Jurisprudence
2/21/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires the judge of a district court to appoint two attorneys, at least one of whom is death penalty qualified, to represent an indigent defendant in a capital felony case "as soon as practicable after any charges are filed, unless the state gives notice in writing that [it] will not seek the death penalty." This is expensive and may not be necessary if the state has not indicated it will seek the death penalty.

As proposed, S.B. 306 requires the appointment of a single death penalty qualified attorney rather than two attorneys, one of whom is death penalty qualified, in a death penalty case as soon as practicable after capital murder charges have been filed against an indigent defendant, and requires a second attorney to be appointed only after the judge receives written notice from the state that it will seek the death penalty.

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 Article 26.052(e), Code of Criminal Procedure, to require the presiding judge of a district court in which a capital felony case is filed to appoint a single qualified attorney to represent an indigent defendant in such a case, rather than two attorneys, one of whom is to be qualified to represent a defendant in a capital case. Requires an attorney to meet the standards adopted under this article for a trial attorney appointed as lead counsel to a capital case in which the death penalty is sought in order to be qualified. Requires a judge to appoint a second attorney to the case on receipt of written notice that the state will seek the death penalty. Prohibits a case in which the state seeks the death penalty from proceeding to trial on the merits until 120 days after the second attorney is appointed to the case.

SECTION 2. Makes application this Act prospective.

SECTION 3. Effective date: September 1, 2007.