

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-24-19

Date

Honorable Dan Patrick
President of the Senate

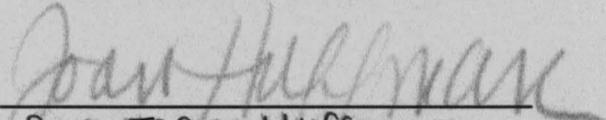
Honorable Dennis Bonnen
Speaker of the House of Representatives

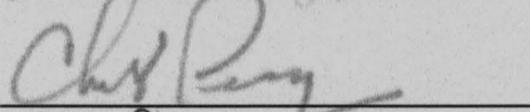
Sirs:

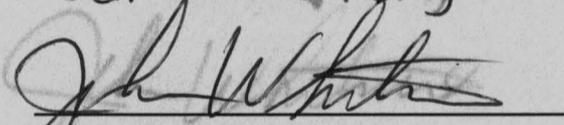
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 583 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

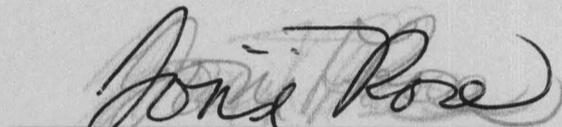

Sen. Juan Hinojosa, Chair

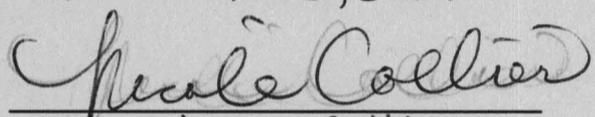

Sen. Pete Flores

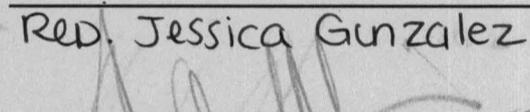

Sen. Joan Huffman

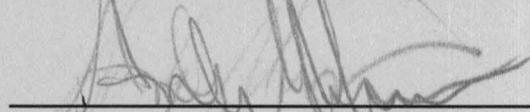

Sen. Charles Perry


On the part of the Senate
Sen. John Whitmire


Rep. Toni Rose, chair


Rep. Nicole Collier


Rep. Jessica Gonzalez


Rep. Andrew S. Murr


On the part of the House
Rep. Reggie Smith

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 583

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the appointment of a local public defender's office to
3 represent indigent defendants in criminal cases.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 26.04, Code of Criminal Procedure, is
6 amended by amending Subsections (a) and (f) to read as follows:

7 (a) The judges of the county courts, statutory county
8 courts, and district courts trying criminal cases in each county,
9 by local rule, shall adopt and publish written countywide
10 procedures for timely and fairly appointing counsel for an indigent
11 defendant in the county arrested for, charged with, or taking an
12 appeal from a conviction of a misdemeanor punishable by confinement
13 or a felony. The procedures must be consistent with this article
14 and Articles 1.051, 15.17, 15.18, 26.05, and 26.052 and must
15 provide for the priority appointment of a public defender's office
16 as described by Subsection (f). A court shall appoint an attorney
17 from a public appointment list using a system of rotation, unless
18 the court appoints an attorney under Subsection (f), (f-1), (h), or
19 (i). The court shall appoint attorneys from among the next five
20 names on the appointment list in the order in which the attorneys'
21 names appear on the list, unless the court makes a finding of good
22 cause on the record for appointing an attorney out of order. An
23 attorney who is not appointed in the order in which the attorney's
24 name appears on the list shall remain next in order on the list.

1 (f) In a county with [~~in which~~] a public defender's office
2 [~~is created or designated under Article 26.044~~], the court or the
3 courts' designee shall give priority in appointing that office to
4 represent the defendant in the criminal proceeding, including a
5 proceeding in a capital murder case. However, the court is not
6 required to appoint the public defender's office if:

7 (1) the court makes a finding of good cause for
8 appointing [~~has reason to appoint~~] other counsel, provided that in
9 a capital murder case, the court makes a finding of good cause on
10 the record for appointing that counsel; [or]

11 (2) the appointment would be contrary to the office's
12 written plan under Article 26.044;

13 (3) the office is prohibited from accepting the
14 appointment under Article 26.044(j); or

15 (4) a managed assigned counsel program also exists in
16 the county and an attorney will be appointed under that program.

17 SECTION 2. This Act takes effect September 1, 2019.

Senate Bill 583
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Article 26.04, Code of Criminal Procedure, is amended. Among other provisions, Subsection (f) is amended to read as follows:

(f) In a county with ~~[in which]~~ a public defender's office ~~[is created or designated under Article 26.044]~~, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

(1) the court *makes a finding of good cause on the record for appointing* ~~[has reason to appoint]~~ other counsel; [œ]

(2) the appointment would be contrary to the office's written plan under Article 26.044;

(3) the office is prohibited from accepting the appointment under Article 26.044(j); or

(4) a managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

SECTION 2. This Act takes effect September 1, 2019.

HOUSE VERSION (IE)

SECTION 1. Same as Senate version except as follows:

(f) In a county with ~~[in which]~~ a public defender's office ~~[is created or designated under Article 26.044]~~, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

(1) the court *has reason to appoint other counsel, provided that in a capital murder case, the court makes a finding of good cause on the record for appointing that counsel;* [œ]
[FA1]

(2) the appointment would be contrary to the office's written plan under Article 26.044;

(3) the office is prohibited from accepting the appointment under Article 26.044(j); or

(4) a managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

SECTION 2. Same as Senate version.

CONFERENCE

SECTION 1. Same as Senate version except as follows:

(f) In a county with ~~[in which]~~ a public defender's office ~~[is created or designated under Article 26.044]~~, the court or the courts' designee shall give priority in appointing that office to represent the defendant in the criminal proceeding, including a proceeding in a capital murder case. However, the court is not required to appoint the public defender's office if:

(1) the court *makes a finding of good cause for appointing* ~~[has reason to appoint]~~ other counsel, *provided that in a capital murder case, the court makes a finding of good cause on the record for appointing that counsel;* [œ]

(2) the appointment would be contrary to the office's written plan under Article 26.044;

(3) the office is prohibited from accepting the appointment under Article 26.044(j); or

(4) a managed assigned counsel program also exists in the county and an attorney will be appointed under that program.

SECTION 2. Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 24, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB583 by Hinojosa (Relating to the appointment of a local public defender's office to represent indigent defendants in criminal cases.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require judges in a county with a public defender's office to prioritize appointments to that office unless certain exceptions are met.

According to the Office of Court Administration (OCA), no significant fiscal impact to the state court system is anticipated.

Local Government Impact

According to OCA, although there may be a small increase in the number of appointments to public defender's offices instead of to private attorneys, no significant fiscal impact to local courts is anticipated.

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: WP, GP, LBO, SD