

BILL ANALYSIS

S.B. 662
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a judge has the discretion to appoint counsel to represent a defendant in a habeas corpus proceeding in a non-capital case. Interested parties contend that there are some limited circumstances where there arguably should be mandatory appointment of counsel to expedite a defendant's release and reduce incarceration expenditures, namely when a district attorney agrees that a defendant should be released because the defendant is actually innocent or guilty of a lesser offense or the law under which the defendant was convicted has been declared void. S.B. 662 seeks to address this concern by requiring the appointment of counsel for certain indigent defendants.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

S.B. 662 amends the Code of Criminal Procedure to require a convicting court, if at any time the state represents to the court that an eligible indigent defendant who was sentenced or had a sentence suspended by the court is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court, to appoint an attorney to represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if such an application has not been filed, or to otherwise represent the indigent defendant in a habeas corpus proceeding based on the application for the writ. The bill applies only to a felony or misdemeanor case in which the applicant seeks relief from a judgment of conviction that imposes a penalty other than death or orders community supervision. The bill requires an appointed attorney to be compensated as provided by statutory provisions regarding compensation of counsel appointed to defend.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.