

BILL ANALYSIS

Senate Research Center

S.B. 1057
By: Hinojosa
Criminal Justice
7/1/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

While the Texas Fair Defense Act has been effective in addressing indigent defense in urban counties, rural counties have struggled to fully comply. The problem is one of both money and available attorneys. Counties with a population of less than 100,000 often lack the tax base to support public defender's offices on their own, and private attorneys are often unwilling to take appointments. As a result, misdemeanor appointment rates for rural counties are only 27 percent, compared to the state average of 41 percent.

S.B. 1057 authorizes state funding for super-regional public defender's offices and creates statutory authority to operate the programs. Regional public defender's offices will create cost benefits for counties by keeping dockets moving. Through more efficient dockets, the counties can also see reduced jail costs.

S.B. 1057 provides rural counties flexibility in adjusting the program to meet their own needs. The counties will still have authority to establish which cases they want covered by the public defender. The participating counties will contract annually with the Texas Indigent Defense Commission (TIDC) for the numbers and types of cases handled by the super-regional public defender's office.

S.B. 1057 also creates the mechanism for TIDC to distribute grant funds. TIDC may distribute the funds if the super-regional public defender's office serves two or more small counties with a population of less than 100,000. The counties will cover half of the office's operational costs and adopt guidelines for what cases the office will handle. Finally, the bill authorizes TIDC to collect and distribute the funds used to operate the office. (Original Author's/Sponsor's Statement of Intent)

S.B. 1057 amends current law relating to the provision of funding for indigent defense services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Indigent Defense Commission in SECTION 2 (Section 79.037, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 79.016(a) and (c), Government Code, as follows:

(a) Requires a board member of the governing board of the Texas Indigent Defense Commission (TIDC) who is a chief public defender for or an attorney employed by an entity that applies for funds under Section 79.037 to disclose that fact before a vote by the board regarding an award of funds to that entity and prohibits the board member or attorney from participating in that vote, rather than requiring a board member who is a chief public defender or who is an attorney employed by a public defender's office in a county that applies for funds under Section 79.037 to disclose that fact before a vote by the board regarding an award of funds to that county and prohibiting that board member from participating in such a vote.

(c) Prohibits TIDC from awarding funds under Section 79.037 to an entity, rather than a county, served by a chief public defender or other attorney who fails to make a disclosure to the board as required by Subsection (a).

SECTION 2. Amends Section 79.037, Government Code, by amending Subsections (a), (b), and (c) and adding Subsections (e), (f), (g), and (h), as follows:

(a) Requires TIDC:

(1) Makes no change to this subdivision;

(2) to assist a county, rather than assist counties, in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section to one or more of the following entities:

(A) the county;

(B) a law school's legal clinic or program that provides indigent defense services in the county; and

(C) a regional public defender that meets the requirements of Subsection (e) and provides indigent defense services in the county; and

(3) monitor each entity that receives a grant under Subdivision (2) and enforce compliance with the conditions of the grant, including enforcement by withdrawing grant funds or requiring reimbursement of grant funds by the entity, rather than monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by withdrawing grant funds or requiring reimbursement of grant funds by the county.

(b) Requires TIDC to determine for each county the entity or entities within the county that are eligible to receive funds for the provision of indigent defense services under Subsection (a)(2), rather than requiring TIDC to distribute funds as required by Subsection (a)(2). Requires the determination to be made based on the entity's compliance with standards adopted by the board, and demonstrated commitment to compliance with the requirements of state law relating to indigent defense. Makes conforming changes.

(c) Requires the board to adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed in a fair manner, rather than distributed to counties in a fair manner.

(e) Authorizes TIDC to distribute funds under Subsection (a)(2) to a regional public defender's office formed under Article 26.044 (Public Defender's Office), Code of Criminal Procedure, if:

(1) the regional public defender's office serves two or more counties;

(2) each county that enters an agreement to create or designate and to jointly fund the regional public defender's office satisfies TIDC that the county will timely provide funds to the office for the duration of the grant for at least half of the office's operational costs;

(3) each participating county by local rule adopts and submits to TIDC guidelines under Article 26.04(f) (relating to a county in which courts are authorized to appoint a public defender), Code of Criminal Procedure, detailing the types of cases to be assigned to the office; and

(4) each participating county and the regional public defender's office agree in writing to a method that TIDC determines to be appropriate under Subsection (f)

to pay all costs associated with the defense of cases assigned to the office that remain pending in the county after the termination of the agreement or the county's participation in the agreement.

(f) Requires TIDC to select, by rule or under a contract with a regional public defender's office, a method for the payment of costs under Subsection (e)(4), which may include any combination of the following:

(1) allowing an office to establish and maintain a reserve of funds to cover anticipated costs, in an amount determined appropriate by TIDC;

(2) guaranteeing all or part of the costs to be paid; or

(3) establishing a schedule of fees for the payment of costs in the manner provided by Article 26.05, Code of Criminal Procedure.

(g) Requires that any change to a schedule of fees established under Subsection (f)(3) first be approved by TIDC.

(h) Requires a regional public defender's office to collect each participating county's portion of the operational costs as that portion is provided by the county to the office.

SECTION 3. Effective date: September 1, 2015.