

BILL ANALYSIS

H.B. 3539
By: Rose
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that although state law provides for exceptions to the requirement for a court to give priority to an applicable public defender's office for purposes of appointment to represent indigent defendants in criminal cases, the grounds on which an exception can be made are unclear, and the process in making that exception is not transparent. It has been suggested that this has led to appointments from the private bar instead of from otherwise qualified, cost-effective, and successful public defender's offices. H.B. 3539 seeks to facilitate the efficient use of public defender's offices by specifying the conditions under which a court may make an exception to such an appointment and requiring the court to make a finding of good cause on the court record with regard to that exception.

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

H.B. 3539 amends the Code of Criminal Procedure to specify that the countywide procedures for the timely and fair appointment of counsel in a criminal proceeding, including a proceeding in a capital murder case, for an indigent defendant must provide for the priority appointment of a public defender's office in a county with such an office. The bill adds as conditions under which a court is not required to appoint a public defender's office for an indigent defendant the condition that the appointment would be contrary to the office's written plan or that the office is prohibited from accepting the appointment for certain reasons. The bill makes the condition that the court has reason to appoint other counsel contingent on the court making a finding of good cause on the record for such appointment.

EFFECTIVE DATE

September 1, 2019.