

BILL ANALYSIS

S.B. 1517
By: Seliger
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that when a person is arrested and jailed in a county on a warrant issued by a different county, confusion results when determining the county responsible for appointing an attorney for the person. These parties believe that this inefficient process has led to arrested persons remaining in jail, most notably in cases in which the warrant-issuing county does not properly transport the person or communicate with the arresting county to effectuate the person's release. S.B. 1517 seeks to remedy this situation by clarifying responsibility for appointment of counsel for a defendant on an out-of-county warrant.

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. 1517 amends the Code of Criminal Procedure to require a court or the courts' designee who is authorized to appoint counsel for indigent defendants in the county that issued the applicable warrant, if the indigent defendant is arrested under the warrant issued in a county other than the county in which the arrest was made and the defendant is entitled to and requests appointed counsel, to appoint counsel within the applicable periods, regardless of whether the defendant is present within the county issuing the warrant and even if adversarial judicial proceedings have not yet been initiated against the defendant in that county. The bill requires the court or the designee, if the defendant has not been transferred or released into the custody of the county issuing the warrant before the 11th day after the date of the arrest and if counsel has not otherwise been appointed for the defendant in the arresting county, to immediately appoint counsel to represent the defendant in any matter under statutory provisions regarding habeas corpus or bail, regardless of whether adversarial judicial proceedings have been initiated against the defendant in the arresting county. The bill authorizes the arresting county, if the counsel for the defendant in the arresting county is appointed under the bill's provisions, to seek from the county that issued the warrant reimbursement for the actual costs paid by the arresting county for the appointed counsel.

S.B. 1517 requires a magistrate, if a person arrested for an offense is taken before the magistrate and the magistrate serves a county other than the county that issued the warrant, to inform the person arrested of the procedures for requesting appointment of counsel and to ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. The bill requires the magistrate, if the person requests the appointment of counsel, to transmit or cause to be transmitted, without unnecessary delay but

not later than 24 hours after the person requested the appointment of counsel, the necessary request forms for appointed counsel to the court or designee in the county issuing the warrant. The bill includes a case in which a person arrested for an out-of-county offense is taken before a magistrate of the county where the arrest took place or before a magistrate in any other county among the cases in which a record is required to be made of certain information relating to the request for the appointment of counsel. The bill establishes that the adopted and published countywide procedures used for timely and fairly appointing counsel for an indigent defendant must be consistent with statutory provisions relating to an arrest for an out-of-county offense.

EFFECTIVE DATE

September 1, 2015.