

BILL ANALYSIS

C.S.S.B. 1649
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the rising cost to counties of court-appointed counsel for indigent defendants. A study by the Texas Indigent Defense Commission indicates that public defender offices may be the most cost-effective method for delivering such legal representation. C.S.S.B. 1649 seeks to support county provision of indigent defense services by clarifying and extending the authorized uses of certain grant funding, authorizing the commission to provide certain assistance in the establishment of public defenders' offices, and requiring a review of fees paid to certain court-appointed defense attorneys.

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

C.S.S.B. 1649 amends the Government Code to specify that grants distributed by the Texas Indigent Defense Commission to assist a county in providing indigent defense services may be used for improving the provision of such services in a county. The bill makes a nonprofit corporation that provides indigent defense services or indigent defense support services in the county eligible to receive such grants. The bill clarifies that technical support provided by the commission to assist counties in improving their indigent defense systems applies to county systems for providing indigent defense services, including indigent defense support services.

C.S.S.B. 1649 reenacts and amends Section 79.037(b), Government Code, as amended by Chapters 56 (S.B. 1353) and 476 (S.B. 1057), Acts of the 84th Legislature, Regular Session, 2015, to conform to the changes made by Chapter 476 (S.B. 1057), Acts of the 84th Legislature, Regular Session, 2015, requiring the commission to determine for each county the entity or entities that are eligible to receive funds for the provision of indigent defense services based on the entity's compliance with standards adopted by the commission's governing board and demonstrated commitment to compliance with the requirements of state law relating to indigent defense, except that the bill makes certain harmonizing changes.

C.S.S.B. 1649 authorizes the commission to do the following:

- encourage the creation of public defenders' offices;
- offer financial and technical assistance to counties in the establishment, operation, and oversight of those offices; and

- provide ongoing financial assistance to those offices, including regional public defenders' offices that serve more than one county.

The bill requires the commission to establish policies and standards for the operation and administration of a public defender's office. The bill requires the commission, not later than November 1 of each even-numbered year, to submit to the governor and the legislature a report that includes the number of public defenders' offices established with the commission's assistance and the number of counties that are not served by a public defender's office.

C.S.S.B. 1649 requires the commission to conduct a biennial review of the schedule of fees adopted for the payment of an attorney, other than an attorney with a public defender's office or an attorney employed by the office of capital and forensic writ, who is appointed to represent an indigent defendant in criminal proceedings and of the total amount of fees paid by counties to such attorneys to ensure that the attorney's fees are consistent and fair.

C.S.S.B. 1649 repeals Section 79.037(e), Government Code, as added by Chapter 56 (S.B. 1353), Acts of the 84th Legislature, Regular Session, 2015.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1649 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions:

- relating to the provision of funds and technical support by the Texas Indigent Defense Commission to assist counties in providing or improving the provision of indigent defense services and in improving related support services and systems; and
- expanding the entities eligible for grants from those funds to include certain nonprofit corporations.

The substitute includes a certain nonsubstantive repeal.

The substitute, with regard to the establishment of public defenders' offices, makes the following changes:

- includes an authorization for the commission to encourage the creation of public defenders' offices;
- replaces requirements for the commission to offer financial and technical assistance to counties in the establishment, operation, and oversight of the offices and to provide ongoing financial assistance to the offices with authorizations;
- does not require the commission to prioritize assistance to counties with populations of less than 100,000;
- does not require the biennial report to include a plan and a timeline for establishing public defenders' offices in counties with populations of less than 100,000; and
- requires the biennial report to include the number of counties that are not served by a public defender's office.