

**SUBJECT:** Allowing bond office employees to administer criminal indigency oaths

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 5 ayes — Keel, Riddle, Ellis, Hodge, Talton

0 nays

4 absent — Denny, Dunnam, P. Moreno, Pena

**WITNESSES:** For — Carol Oeller, Harris County Office of Court Services

Against — None

**BACKGROUND:** Government Code, sec. 602.002, as amended by the 77th Legislature in 2001, authorizes 14 categories of people to administer oaths in Texas. Employees of personal bond offices may administer oaths required of criminal defendants who are released on personal bonds.

Under Code of Criminal Procedure, art. 26.04(n), a criminal defendant who requests appointment of a lawyer because the defendant is indigent must complete under oath a questionnaire about his or her financial resources or must respond under oath to an examination about those resources by a judge or magistrate. Art. 26.04(o) requires courts to request that defendants sign an oath about their resources before making a determination of indigency.

**DIGEST:** HB 1609 would allow an employee of a personal bond office to administer an oath related to a criminal defendant who requests the appointment of a lawyer because the defendant is indigent.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS SAY:** HB 1609 would help conserve judicial resources by allowing employees of county bond offices to issue the oaths required of criminal defendants who want to have attorneys appointed because they are indigent.

The 2002 revisions to the procedures used for appointing attorneys for indigent defendants require that counties gather financial information and that defendants make certain oaths about their financial resources. To implement these requirements, many personal bond offices perform these pretrial services by screening defendants, gathering their financial information, and making an initial determination about indigency. Rather than requiring a judge or magistrate to administer the required oaths, it would be more efficient and cost-effective to allow bond office employees to administer the oaths at the same time they were gathering the information. In addition, the bill could help alleviate the need to find and pay notaries when going through the required procedures. Courts would continue to make final decisions about defendants' indigency.

Employees of personal bond offices and numerous other types of people who are not judges may administer oaths. There is no reason to think that people making oaths do not take them seriously when people who are not judges administer them. Generally, criminal defendants who can afford to hire attorneys do hire them and do not claim falsely to be indigent simply to receive an appointed attorney.

**OPPONENTS  
SAY:**

It could be unwise to allow indigency oaths to administered by people other than judges, since a person making an oath might not take it as seriously if it were administered by a judge or magistrate. This could be important when making indigency oaths, since counties must pay for attorneys for indigents.