

SUBJECT: Procedures for appointment of counsel for out of county warrant arrests

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

SENATE VOTE: On final passage, May 5 — 31-0, on local and uncontested calendar

WITNESSES: (*On House companion bill, HB 2525*)

For — Rebecca Bernhardt, Texas Fair Defense Project; John Dahill, Texas Conference of Urban Counties; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Patricia Cummings, Texas Criminal Defense Lawyers Association; Sarah Pahl, Texas Criminal Justice Coalition; Matt Simpson, ACLU of Texas)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 1.051 governs the appointment of legal counsel for indigent criminal defendants. Art. 1.051(c) states that if certain conditions are met, courts shall appoint counsel within specified time frames. In some cases, a warrant is issued for someone's arrest in one county, but the defendant is arrested and jailed in another county. In these situations, it is unclear which county is responsible for appointing counsel if the defendant is indigent.

DIGEST: SB 1517 would establish a process for determining the responsibility for appointing counsel for indigent defendants when a warrant was issued for an arrest in one county and the defendant was arrested and jailed in another county.

If an indigent defendant was arrested under a warrant issued in a county other than the county where the arrest was made, a court in the county that issued the warrant would be required to appoint counsel within the current time frames, regardless of whether the defendant was present in

the county issuing the warrant. The appointment would be required even if adversarial judicial proceedings had not yet been initiated in the county issuing the warrant.

However, if the defendant had not been transferred or released to the county issuing the warrant before the 11th day after arrest and if counsel had not already been appointed by the arresting county, a court in the arresting county would have to immediately appoint counsel to represent the defendant for matters under Code of Criminal Procedure, ch. 11, which deals with writs of habeas corpus, and ch. 17, which deals with bail. This appointment would occur regardless of whether adversarial proceedings had been initiated in the arresting county.

If the arresting county appointed counsel in these cases, that county could seek reimbursement from the county that issued the warrant for the costs paid for the appointed counsel.

When persons arrested under out-of-county warrants were presented before magistrates, the magistrates would be required to inform them of procedures for requesting appointment of counsel and ensure that they received reasonable assistance in completing the necessary forms. If these individuals requested the appointment of counsel, the magistrate would transmit the request forms within 24 hours to a court in the county that issued the warrant.

The bill would take effect September 1, 2015, and would apply only to a person arrested on or after that date.