

## **BILL ANALYSIS**

Senate Research Center

H.B. 1238  
By: Junell (Duncan)  
Criminal Justice  
5-10-97  
Engrossed

### **DIGEST**

Currently, a public defender's office establishes a public attorney for the purpose of providing criminal defense services to those defendants who cannot afford to hire their own counsel. Such offices are created as needed by counties and districts across the state. H.B. 1238 gives the Commissioners Court of Tom Green County the authority to appoint an attorney to serve as public defender.

### **PURPOSE**

As proposed, H.B. 1238 provides for the appointment of a public defender by the Commissioners Court of Tom Green County.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 26, Code of Criminal Procedure, by adding Article 26.049, as follows:

Sec. 26.049. PUBLIC DEFENDER IN TOM GREEN COUNTY. Authorizes the Commissioners Court of Tom Green County (commissioners court) to appoint an attorney to serve as a public defender and serve at the pleasure of the commissioners court. Sets forth the required qualifications to be eligible for appointment as a public defender. Sets forth the terms by which the public defender is authorized to employ certain other necessary personnel, compensate such personnel, and pay for office expenses. Prohibits a public defender or an assistant public defender (assistant), except as authorized by this article, from engaging in the private practice of law or accepting any unauthorized thing of value for services rendered. Authorizes the commissioners court to remove a public defender or an assistant who violates Subsection (e). Requires the public defender or an assistant to represent certain indigent persons charged with criminal offenses in Tom Green County, and sets forth the terms by which the defender is authorized to investigate the financial condition of any person the defender is appointed to represent. Establishes the conditions under which a judge is authorized to appoint another attorney to represent an indigent person in the case of a conflict of interest. Provides that, except for the provisions relating to daily appearance fees, Article 26.05 applies to the public defender and assistants. Authorizes the commissioners court to accept gifts and grants from any source to finance a public defender program.

SECTION 2. Emergency clause.

Effective date: upon passage.