

BILL ANALYSIS

Senate Research Center

S.B. 261
By: Sibley
Jurisprudence
2-6-97
As Filed

DIGEST

Currently, Section 1.13(c), Code of Criminal Procedure, requires an attorney to be appointed in order for a defendant to waive a jury even if the person is a non-indigent and does not want an attorney. Even though the requirement that an attorney be appointed to waive a jury was only meant to apply in felony cases, judges are treating the provision as written, and are appointing attorneys in non-indigency cases for what would otherwise be pro-se defendants, who are defendants representing themselves. Thus, counties are paying for attorneys for the limited purpose of waiving a jury. This bill makes it clear that Section 1.13(c), Code of Criminal Procedure, only applies to felony cases, and that defendants in misdemeanor cases may waive their right to counsel and jury, and enter a pro-se plea.

PURPOSE

As proposed, S.B. 261 authorizes misdemeanor defendants to waive jury trial without representation.

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 Article 1.13(c), Code of Criminal Procedure, to authorize a defendant to waive a jury trial without representation of an attorney, except in situations where the defendant is charged with a felony, whereby the court must have appointed an attorney to represent the defendant, if the defendant did not already have representation, in order for the defendant to waive a jury trial.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.