

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1701
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Criminal Justice
5/20/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, county officials are required to prepare, in the manner prescribed by the Office of Court Administration (OCA), an annual copy of all rules and forms that describe the procedures used to provide indigent defendants with counsel. After compiling this information, counties must submit this information to the OCA. The Task Force on Indigent Defense is in a better position to gauge how the information should be presented and compiled.

C.S.H.B. 1701 transfers these duties from the OCA to the task force and requires this information to be compiled biennially, rather than annually. It also allows a retired district judge to serve on the task force and enhances the requirements for counsel representing indigent defendants in capital cases.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Court of Criminal Appeals is modified in SECTION 5 (Section 11.071, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 71.0351, Government Code, as follows:

Sec. 71.0351. INDIGENT DEFENSE INFORMATION. (a) Requires in each county, not later than November 1 of each odd-numbered year, rather than January 1 of each year, and in the form and manner prescribed by the Task Force on Indigent Defense (Task Force), rather than the office of court administration (office), certain information, including any revisions or verifications to rules or forms previously submitted to the office under this section which still remain in effect, to be prepared and provided to the office.

(b) Redesignates existing text from Subsection (a). Makes conforming changes.

(c) Redesignates existing text from Subsection (b). Makes conforming changes.

(d) Requires the chair of the juvenile board in each county, or the person designated by the chair, to perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) Redesignates existing text from Subsection (c). Replaces references to the office with the Task Force.

(f) Redesignates existing text from Subsection (d). Deletes existing text from Subsection (e) relating to requiring the office to forward specific information to the Task Force.

SECTION 2. Amends Sections 71.053(a) and (b), Government Code, as follows:

(a) Requires the governor to appoint five members of the Task Force, including one member who is a district judge, rather than an active district judge, serving as a presiding judge of an administrative judicial region, with the advice and consent of the senate.

(b) Requires the members to serve staggered two-year terms, with two members' terms expiring February 1 of each odd-numbered year and three, rather than two, members' terms expiring February 1 of each even-numbered year.

SECTION 3. Amends Section 71.059(b), Government Code, to authorize the State Grants Team of the Governor's Office of Budget, Planning, and Policy, to assist the Task Force in identifying grants and other resources available for use by the task force in performing its duties under this subchapter.

SECTION 4. Amends Section 71.061(b), Government Code, to require the Task Force to annually submit and publish a report in written and electronic form containing specific information, including the information submitted under Section 71.0351, rather than such information that was forwarded to the task force from the office, to specific government officials.

SECTION 5. Amends Section 2(d), Article 11.071, Code of Criminal Procedure, to require the rules adopted by the Court of Criminal appeals to require that an attorney appointed as lead counsel under this section not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case.

SECTION 6. Amends Article 26.044(a), Code of Criminal Procedure, to define "governmental entity" and redefine "public offender."

SECTION 7. Amends Article 26.052(d), Code of Criminal Procedure, to require the standards [adopted by the local selection committee] to require that a trial attorney appointed as lead counsel to a death capital, rather than a death penalty, case meet specific qualifications.

SECTION 8. Requires the court of criminal appeals to amend rules adopted under Section 2(d), Article 11.071, Code of Criminal Procedure, as necessary to comply with that section, as amended by this Act, not later than January 1, 1006, including that the person has not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any case.

SECTION 9. Requires a local selection committee to amend standards previously adopted by the committee to conform with the requirements of Article 26.052(d), Code of Criminal Procedure, as amended by this Act, not later than the 75th day after the effective date of this Act. Makes application of Article 26.052(d), as amended by this Act, prospective to the 75th day after the effective date of this Act.

SECTION 10. Effective date: upon passage or September 1, 2005.