

BILL ANALYSIS

Senate Research Center
83R21697 JRH-F

C.S.S.B. 592
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Criminal Justice
4/18/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Indigent defense systems that do not have checks and balances in place to protect against massive caseloads are at risk of wasting countless taxpayer dollars, jeopardizing public safety, and violating the protection of the constitutional right to counsel. Without caseload standards, these systems are too often unaccountable, ineffective, and wasteful.

In Harris County, the lack of checks and balances has allowed individual criminal defense lawyers to be appointed to almost one thousand cases in a single year. These lawyers earn between \$300,000 and \$400,000 per year from indigent defense appointments alone. The attorneys with the most cases have double the number of recommended cases as prescribed by national standards.

The system's failure to ensure that people accused of criminal offenses receive quality legal representation undermines not only the Constitution, but also jeopardizes public safety. When attorneys spend very little time on cases, it undermines the reliability of convictions in courtrooms and the core goal of the justice system: protecting public safety by ensuring that the innocent are protected and the guilty are brought to justice. Attorneys with overwhelming caseloads run the risk of providing incompetent representation, which runs the risk of placing innocent defendants behind bars at taxpayers' expense, while citizens remain at the mercy of guilty perpetrators who are not punished for their crimes.

Currently, there is no legislation that monitors the caseloads of appointed attorneys practicing indigent defense. However, public defender offices and contract attorneys practicing indigent defense must set caseload maximums.

C.S.S.B. 592 requires an attorney to submit information to the county that describes the attorney's caseload for the most recent fiscal year, including cases taken on retainer. The bill requires the county to submit statistics and other information for the preceding fiscal year on the caseloads of appointed attorneys to the Texas Indigent Defense Commission.

C.S.S.B. 592 amends current law relating to the representation of indigent defendants in criminal cases.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 26.04(j), Code of Criminal Procedure, to require an attorney appointed under this article, not later than October 15 of each year and in the form and manner prescribed by the Texas Indigent Defense Commission (TIDC), to submit to the county information that describes the attorney's caseload for the preceding fiscal year, including cases taken on a retainer, among other requirements.

SECTION 2. Amends Section 79.036(a), Government Code, effective September 1, 2013, as follows:

(a) Requires that each county prepare and provide to TIDC, not later than November 1 of each odd-numbered year and in the form and manner prescribed by TIDC:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 (Compensation of Counsel Appointed to Defend) of that code;

(2) any plan or proposal submitted to the commissioners court under Article 26.044 (Public Defender's Office), Code of Criminal Procedure;

(3) any plan of operation submitted to the commissioners court under Article 26.047 (Managed Assigned Counsel Program), Code of Criminal Procedure;

(4) any contract for indigent defense services required under rules adopted by TIDC relating to a contract defender program;

(5) any revisions to rules, forms, plans, proposals, or contracts previously submitted under this section; or

(6) verification that rules, forms, plans, proposals, or contracts previously submitted under this section still remain in effect.

Deletes existing text requiring that certain information be prepared and provided to TIDC in each county, not later than November 1 of each odd-numbered year.

SECTION 3. Amends Section 79.036, Government Code, by adding Subsection (a-1), to require each county, not later than November 1 of each year and in the form and manner prescribed by TIDC, to prepare and provide to TIDC information that describes for the preceding fiscal year the caseloads of attorneys receiving appointments under Article 26.04, Code of Criminal Procedure.

SECTION 4. (a) Effective date, this section: September 1, 2013.

(b) Requires TIDC, not later than September 1, 2014, to conduct and publish a study for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that, when the attorney's total caseload, including appointments made under Article 26.04, Code of Criminal Procedure, appointments made under Title 3 (Juvenile Justice Code), Family Code, and other work, is considered, allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation. Requires that the study be based on relevant policies, performance guidelines, and best practices.

(c) Requires TIDC, in conducting the study under Subsection (b) of this section, to consult with criminal defense attorneys, criminal defense attorney associations, the judiciary, and any other organization engaged in the development of criminal indigent defense policy that TIDC considers appropriate.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date, except as otherwise provided by this Act: September 1, 2014.