

BILL ANALYSIS

Senate Research Center

S.B. 1517
By: Seliger; West
Criminal Justice
4/17/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1517 amends the Code of Criminal Procedure in order to clarify responsibility for appointment of counsel on arrests made in one county on a warrant issued in another county. The provisions of this bill ensure that arrestees have access to counsel in a timely manner, as provided under current law.

As proposed, S.B. 1517 amends current law relating to the appointment of counsel to represent 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 1.051, Code of Criminal Procedure, by amending Subsections (c), (i), and (k) and adding Subsection (c-1), as follows:

(c) Requires a court or the courts' designee authorized under Article 26.04 (Procedures for Appointing Counsel) to appoint counsel for indigent defendants in the county in which the defendant is arrested, subject to Subsection (c-1), if an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have been initiated against the defendant, to appoint counsel as soon as possible, but not later than:

(1) the end of the third working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel, if the defendant is arrested in a county with a population of less than 250,000; or

(2) the end of the first working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel, if the defendant is arrested in a county with a population of 250,000 or more.

Deletes existing text requiring the court or the courts' designee, in a county with a population of 250,000 or more, to appoint counsel as required by this subsection as soon as possible, but not later than the end of the first working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. Makes a nonsubstantive change.

(c-1) Requires a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county that issued the warrant, if an indigent defendant is arrested under a warrant issued in a county other than the county in which the arrest was made and the defendant is entitled to and requests appointed counsel, to appoint counsel within the periods prescribed by Subsection (c), regardless of whether the defendant is present within the county issuing the warrant and even if adversarial judicial proceedings have not yet been initiated against the defendant in the county issuing the warrant. Requires a court or the courts' designee authorized under Article

26.04 to appoint counsel for indigent defendants in the arresting county immediately, however, if the defendant has not been transferred or released into the custody of the county issuing the warrant before the 11th day after the date of the arrest and if counsel has not otherwise been appointed for the defendant in the arresting county under this article, to appoint counsel to represent the defendant in all pretrial and trial matters, including habeas corpus proceedings, regardless of whether adversarial judicial proceedings have been initiated against the defendant in the arresting county.

(i) Requires a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county in which the defendant is arrested, subject to Subsection (c-1), with respect to a county with a population of less than 250,000, if an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have not been initiated against the defendant, to appoint counsel immediately following the expiration of three working days after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. Requires the court or the courts' designee, subject to Subsection (c-1), in a county with a population of 250,000 or more, to appoint counsel as required by this subsection immediately following the expiration of one working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel. Deletes existing exception under this subsection. Makes no further change to this subsection.

(k) Authorizes a court or the courts' designee to, without unnecessary delay, appoint new counsel to represent an indigent defendant for whom counsel is appointed under Subsection (c), (c-1), or (i) if certain conditions are met.

SECTION 2. Amends Article 15.17(e), Code of Criminal Procedure, to require that a record, in each case in which a person arrested is taken before a magistrate as required by Subsection (a) (relating to the rights of an arrested person and the duties of the arresting officer and magistrate) or Article 15.18(a), be made of certain information regarding a person's request for the appointment of counsel.

SECTION 3. Amends Article 15.18, Code of Criminal Procedure, by adding Subsection (a-1), to require the magistrate, if the arrested person is taken before a magistrate of a county other than the county that issued the warrant, to, if the person is indigent and is entitled to and requests appointed counsel, without unnecessary delay but not later than 24 hours after the person requested the appointment of counsel, transmit, or cause to be transmitted, the appropriate request forms to a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county issuing the warrant.

SECTION 4. Amends Article 26.04(a), Code of Criminal Procedure, to require that the written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for, charged with, or taking an appeal from a conviction of a misdemeanor punishable by confinement or a felony be consistent with this article and Articles 1.051 (Right to Representation by Counsel), 15.17 (Duties of Arresting Officer and Magistrate), 15.18, 26.05 (Compensation of Counsel Appointed to Defend), and 26.052 (Appointment of Counsel in Death Penalty Case; Reimbursement of Investigative Expenses).

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2015.