

## **BILL ANALYSIS**

Senate Research Center

S.B. 316  
By: Hinojosa  
Criminal Justice  
9/1/2015  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The use of public defenders is governed by Article 26.04, Code of Criminal Procedure. The provision currently indicates that a court "may" appoint a public defender to represent qualifying defendants, indicating that the court is not required to do so. Accordingly, some courts are not assigning public defenders to qualifying defendants, even when the case seems like one where the use of a public defender is warranted. This undermines the rights of the accused and wastes taxpayer money that funds public defender offices.

To facilitate the use of public defenders, S.B. 316 amends the Code of Criminal Procedure to change the provision to indicate that a court "shall give priority" to appoint a public defender, with the stated exception that the court is not required to appoint the public defender's officer if the court finds good cause to appoint other counsel, or where counsel is provided by a county managed assigned counsel program.

S.B. 316 amends current law relating to the prioritization of certain available legal defense services when appointing representation for an indigent defendant in a criminal case.

### **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 Articles 26.04(f), (h), and (i), Code of Criminal Procedure, as follows:

(f) Requires the court or the court's designee, in a county in which a public defender's office is created or designated under Article 26.044 (Public Defender's Office), to give priority in appointing the office to represent the defendant, rather than authorizes the court or the court's designee, in a county in which a public defender's office is created or designated under Article 26.044, to appoint the office to represent the defendant in accordance with guidelines established for the office. Provides that, however, the court is not required to appoint the public defender's office if the court has reason to appoint other counsel or a managed assigned counsel program also exists in the county and an attorney will be appointed under that program. Makes nonsubstantive changes.

(h) and (i) Makes these subsections subject to Subsection (f) and makes nonsubstantive changes to these subsections.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.