

By: Seliger, West

S.B. No. 1517

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of counsel to represent indigent defendants in criminal cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 1.051, Code of Criminal Procedure, is amended by amending Subsections (c), (i), and (k) and adding Subsection (c-1) to read as follows:

(c) An indigent defendant is entitled to have an attorney appointed to represent him in any adversary judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation. Subject to Subsection (c-1) ~~[Except as otherwise provided by this subsection]~~, if an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have been initiated against the defendant, 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 shall 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) ~~[. In a county with a population of 250,000 or~~

~~more, the court or the courts' designee shall 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, if the defendant is arrested in a county with a population of 250,000 or more.~~

(c-1) 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, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the county that issued the warrant shall 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. 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, a court or the courts' designee authorized under Article 26.04 to appoint counsel for indigent defendants in the arresting county immediately shall 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) Subject to Subsection (c-1) ~~[Except as otherwise provided by this subsection]~~, 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, 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 shall 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. If adversarial judicial proceedings are initiated against the defendant before the expiration of the three working days, the court or the courts' designee shall appoint counsel as provided by Subsection (c). Subject to Subsection (c-1), in ~~[In]~~ a county with a population of 250,000 or more, the court or the courts' designee shall 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. If adversarial judicial proceedings are initiated against the defendant before the expiration of the one working day, the court or the courts' designee shall appoint counsel as provided by Subsection (c).

(k) A court or the courts' designee may without unnecessary delay appoint new counsel to represent an indigent defendant for whom counsel is appointed under Subsection (c), (c-1), or (i) if:

(1) the defendant is subsequently charged in the case

1 with an offense different from the offense with which the defendant  
2 was initially charged; and

3 (2) good cause to appoint new counsel is stated on the  
4 record as required by Article 26.04(j)(2).

5 SECTION 2. Article 15.17(e), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (e) In each case in which a person arrested is taken before a  
8 magistrate as required by Subsection (a) or Article 15.18(a), a  
9 record shall be made of:

10 (1) the magistrate informing the person of the  
11 person's right to request appointment of counsel;

12 (2) the magistrate asking the person whether the  
13 person wants to request appointment of counsel; and

14 (3) whether the person requested appointment of  
15 counsel.

16 SECTION 3. Article 15.18, Code of Criminal Procedure, is  
17 amended by adding Subsection (a-1) to read as follows:

18 (a-1) If the arrested person is taken before a magistrate of  
19 a county other than the county that issued the warrant, the  
20 magistrate shall, if the person is indigent and is entitled to and  
21 requests appointed counsel, without unnecessary delay but not later  
22 than 24 hours after the person requested the appointment of  
23 counsel, transmit, or cause to be transmitted, the appropriate  
24 request forms to a court or the courts' designee authorized under  
25 Article 26.04 to appoint counsel for indigent defendants in the  
26 county issuing the warrant.

27 SECTION 4. Article 26.04(a), Code of Criminal Procedure, is

1 amended to read as follows:

2       (a) The judges of the county courts, statutory county  
3 courts, and district courts trying criminal cases in each county,  
4 by local rule, shall adopt and publish written countywide  
5 procedures for timely and fairly appointing counsel for an indigent  
6 defendant in the county arrested for, charged with, or taking an  
7 appeal from a conviction of a misdemeanor punishable by confinement  
8 or a felony. The procedures must be consistent with this article  
9 and Articles [1.051](#), [15.17](#), [15.18](#), [26.05](#), and [26.052](#). A court shall  
10 appoint an attorney from a public appointment list using a system of  
11 rotation, unless the court appoints an attorney under Subsection  
12 (f), (f-1), (h), or (i). The court shall appoint attorneys from  
13 among the next five names on the appointment list in the order in  
14 which the attorneys' names appear on the list, unless the court  
15 makes a finding of good cause on the record for appointing an  
16 attorney out of order. An attorney who is not appointed in the  
17 order in which the attorney's name appears on the list shall remain  
18 next in order on the list.

19       SECTION 5. The change in law made by this Act applies only  
20 to a person who is arrested on or after the effective date of this  
21 Act. A person arrested before the effective date of this Act is  
22 governed by the law in effect on the date the person was arrested,  
23 and the former law is continued in effect for that purpose.

24       SECTION 6. This Act takes effect September 1, 2015.