

HB 1318

Relating to the duration of a youth's detention following a detention hearing and the appointment of counsel for that hearing for certain youths.

Bill Author: Turner, S.

Bill History: 5-23-13 Sent to the Governor

This bill would require the juvenile court to appoint counsel before the initial detention hearing is held to represent the child at that hearing if the child is unrepresented and qualifies for appointed counsel unless the court finds that the appointment of counsel is “not feasible due to exigent circumstances”. Currently some counties do not regularly appoint counsel prior to initial detention hearings.

The bill was amended in the House to include the text of HB 3207 by Alonzo, which would prohibit a public defender from accepting an appointment if that appointment would violate the maximum attorney caseload limit established for the office. It also requires the chief public defender to file a written statement explaining why they are refusing the appointment. The court will then review and determine if the reason states adequate good cause and shall include the written statement with the case. A chief public defender may not be fired, removed, or sanctioned for their good faith refusal of an appointment.

The bill was also amended in the Senate to include a revised version of SB 592 by Ellis. This amendment includes the following provisions related to attorney caseloads:

- “Not later than January 1, 2015, the Texas Indigent Defense Commission shall 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, Family Code, and other work, is considered, allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation. The study must be based on relevant policies, performance guidelines, and best practices. In conducting the study ... the commission shall 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 the commission considers appropriate.”
- Requires each county to submit to the Commission each odd numbered year with their indigent defense plans (1) any plan or proposal submitted to commissioners court for the creation of a public defender's office; (2) any plan of operation for a managed assigned counsel program submitted to commissioners court; and (3) any contract for indigent defense services. (Starting November 1, 2013)
- Requires attorneys on the appointment list to submit to county annually by October 15th on a form prescribed by the Commission information for the preceding fiscal year that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code. (Starting October 15, 2014)
- Requires each county to submit to the Commission annually by November 1st in the form and manner prescribed by the commission information that describes for the preceding fiscal year the number of appointments in the county for criminal and juvenile delinquency cases made to each attorney accepting appointments in the county and information provided to the

county by those attorneys under Article 26.04(j)(4), Code of Criminal Procedure. This is essentially the information in bullet immediately above. (Starting November 1, 2014)