

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Additional State Funding for Indigent Defense

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code;

WHEREAS, the Texas Indigent Defense Commission (Commission) is a permanent standing committee of the Texas Judicial Council, created under Chapter 79, Texas Government Code; and,

WHEREAS, the Commission is charged with promoting compliance by counties with the requirements of state law related to indigent defense pursuant to the *Fair Defense Act of 2001*; and,

WHEREAS, the Commission provides State funds through grants to counties that demonstrate a commitment to comply with the requirements of state law relating to indigent defense; and,

WHEREAS, the right to counsel is also guaranteed in both the Texas Constitution and the United States Constitution; and,

WHEREAS, the State funding through the Commission has directly led to improved compliance and innovations that enhance quality and effectiveness of indigent defense representation; and,

WHEREAS, ten people in Texas have been exonerated through Commission-funded innocence projects at the state's public law schools; and,

WHEREAS, thousands more Texans are now receiving constitutionally guaranteed defense representation as a result of more effective indigent defense delivery systems; and

WHEREAS, the overwhelming share of the increased indigent defense costs since the passage of *Fair Defense Act of 2001* has fallen upon counties; and,

WHEREAS, the overall costs expended by counties has increased by almost 120 percent; and,

WHEREAS, the underfunding of indigent defense can invite costly litigation; and,

WHEREAS, the Commission's Legislative Appropriation Request is directly related to closing the funding gap of the increased county costs not covered by Commission grants; and,

WHEREAS, population growth has exacerbated the funding gap and without new funding the State's share of indigent defense costs will continue to erode; and,

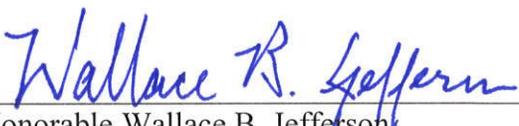
WHEREAS, the 82nd Legislature removed the Commission's estimated appropriation authority and unexpended balance authority between the biennia; and,

WHEREAS, more than \$7 million dollars sits in the Fair Defense Account, unavailable to help counties meet constitutional and statutory obligations to ensure access to counsel for indigent defendants; and,

WHEREAS, more than \$77 million per year in new money is needed to close the funding gap incurred by counties due to the mandates of the *Fair Defense Act of 2001*;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends that the Texas Legislature:

- 1) Restore access to all dedicated funds for indigent defense by reinstating estimated appropriation authority and by reestablishing unexpended balance authority between biennia to the Commission; and,
- 2) Close the "unfunded" gap that is being borne by counties for the additional indigent defense costs that they have incurred due to the mandates of the *Fair Defense Act of 2001*.



Honorable Wallace B. Jefferson
Chair, Texas Judicial Council

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