

**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; and,

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, 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 largely upon counties; and,

WHEREAS, the overall costs expended by counties has increased by almost 140 percent; and,

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

WHEREAS, the Regional Public Defender Office for Capital Cases was created in 2009 by Lubbock County with a grant from the Commission to serve indigent defendants in capital cases in counties with less than 300,000 population; and,

WHEREAS, the Regional Public Defender Office for Capital Cases provides high quality and cost effective representation to defendants in capital murder cases; and,

WHEREAS, the Regional Public Defender Office for Capital Cases provides budget predictability for participating counties to protect against the dramatic impact a capital case can have on county budgets; and,

WHEREAS, the rural counties in Texas struggle financially to comply with the requirements of the Fair Defense Act; and,

WHEREAS, a dearth of qualified attorneys in rural counties aggravates the challenge posed to provide competent representation in serious cases in rural counties; and,

WHEREAS, the Commission provided a 2011 discretionary grant to Bell County to develop an electronic process management tool that helps the county administer its indigent defense system and monitor key data regarding compliance with the requirements of state law and local rules; and

WHEREAS, the Commission awarded a 2014 discretionary grant to work with the Texas Conference of Urban Counties' TechShare program to further develop this system and make it available to more counties;

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

- 1) Support the statewide Regional Public Defender Office for Capital Cases by providing \$3.1 million annually from General Revenue to continue the development of and provide ongoing support to the program; and,
- 2) Support the multi-county indigent defense technology grant program by providing \$1.5 million annually from General Revenue to continue the development and expansion of the multi-county indigent defense technology grant program to more counties; and,
- 3) Close the Fair Defense Act funding gap by providing \$98.4 million annually from General Revenue to defray the unfunded increased costs associated with the passage of the *Fair Defense Act of 2001*; and,
- 4) Provide General Revenue to support regional public defender offices in rural counties operated by non-profit legal services corporations.



Honorable Nathan L. Hecht  
Chair, Texas Judicial Council

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