

1-1 By: Coleman (Senate Sponsor - Seliger) H.B. No. 2525
 1-2 (In the Senate - Received from the House May 18, 2015;
 1-3 May 19, 2015, read first time and referred to Committee on
 1-4 Administration; May 24, 2015, reported favorably by the following
 1-5 vote: Yeas 4, Nays 0; May 24, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Uresti	X			
1-9 Campbell			X	
1-10 Eltife			X	
1-11 Huffines	X			
1-12 Schwertner	X			
1-13 West			X	

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the appointment of counsel to represent indigent
 1-18 defendants in criminal cases.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Article 1.051, Code of Criminal Procedure, is
 1-21 amended by amending Subsections (c), (i), and (k) and adding
 1-22 Subsection (c-1) to read as follows:

1-23 (c) An indigent defendant is entitled to have an attorney
 1-24 appointed to represent him in any adversary judicial proceeding
 1-25 that may result in punishment by confinement and in any other
 1-26 criminal proceeding if the court concludes that the interests of
 1-27 justice require representation. Subject to Subsection (c-1)
 1-28 ~~[Except as otherwise provided by this subsection],~~ if an indigent
 1-29 defendant is entitled to and requests appointed counsel and if
 1-30 adversarial judicial proceedings have been initiated against the
 1-31 defendant, a court or the courts' designee authorized under Article
 1-32 26.04 to appoint counsel for indigent defendants in the county in
 1-33 which the defendant is arrested shall appoint counsel as soon as
 1-34 possible, but not later than:

1-35 (1) the end of the third working day after the date on
 1-36 which the court or the courts' designee receives the defendant's
 1-37 request for appointment of counsel, if the defendant is arrested in
 1-38 a county with a population of less than 250,000; or

1-39 (2) ~~[. In a county with a population of 250,000 or~~
 1-40 ~~more, the court or the courts' designee shall appoint counsel as~~
 1-41 ~~required by this subsection as soon as possible, but not later than]~~
 1-42 the end of the first working day after the date on which the court or
 1-43 the courts' designee receives the defendant's request for
 1-44 appointment of counsel, if the defendant is arrested in a county
 1-45 with a population of 250,000 or more.

1-46 (c-1) If an indigent defendant is arrested under a warrant
 1-47 issued in a county other than the county in which the arrest was
 1-48 made and the defendant is entitled to and requests appointed
 1-49 counsel, a court or the courts' designee authorized under Article
 1-50 26.04 to appoint counsel for indigent defendants in the county that
 1-51 issued the warrant shall appoint counsel within the periods
 1-52 prescribed by Subsection (c), regardless of whether the defendant
 1-53 is present within the county issuing the warrant and even if
 1-54 adversarial judicial proceedings have not yet been initiated
 1-55 against the defendant in the county issuing the warrant. However,
 1-56 if the defendant has not been transferred or released into the
 1-57 custody of the county issuing the warrant before the 11th day after
 1-58 the date of the arrest and if counsel has not otherwise been
 1-59 appointed for the defendant in the arresting county under this
 1-60 article, a court or the courts' designee authorized under Article
 1-61 26.04 to appoint counsel for indigent defendants in the arresting

2-1 county immediately shall appoint counsel to represent the defendant
 2-2 in any matter under Chapter 11 or 17, regardless of whether
 2-3 adversarial judicial proceedings have been initiated against the
 2-4 defendant in the arresting county. If counsel is appointed for the
 2-5 defendant in the arresting county as required by this subsection,
 2-6 the arresting county may seek from the county that issued the
 2-7 warrant reimbursement for the actual costs paid by the arresting
 2-8 county for the appointed counsel.

2-9 (i) Subject to Subsection (c-1) [~~Except as otherwise~~
 2-10 provided by this subsection], with respect to a county with a
 2-11 population of less than 250,000, if an indigent defendant is
 2-12 entitled to and requests appointed counsel and if adversarial
 2-13 judicial proceedings have not been initiated against the defendant,
 2-14 a court or the courts' designee authorized under Article 26.04 to
 2-15 appoint counsel for indigent defendants in the county in which the
 2-16 defendant is arrested shall appoint counsel immediately following
 2-17 the expiration of three working days after the date on which the
 2-18 court or the courts' designee receives the defendant's request for
 2-19 appointment of counsel. If adversarial judicial proceedings are
 2-20 initiated against the defendant before the expiration of the three
 2-21 working days, the court or the courts' designee shall appoint
 2-22 counsel as provided by Subsection (c). Subject to Subsection
 2-23 (c-1), in [~~In~~] a county with a population of 250,000 or more, the
 2-24 court or the courts' designee shall appoint counsel as required by
 2-25 this subsection immediately following the expiration of one working
 2-26 day after the date on which the court or the courts' designee
 2-27 receives the defendant's request for appointment of counsel. If
 2-28 adversarial judicial proceedings are initiated against the
 2-29 defendant before the expiration of the one working day, the court or
 2-30 the courts' designee shall appoint counsel as provided by
 2-31 Subsection (c).

2-32 (k) A court or the courts' designee may without unnecessary
 2-33 delay appoint new counsel to represent an indigent defendant for
 2-34 whom counsel is appointed under Subsection (c), (c-1), or (i) if:

2-35 (1) the defendant is subsequently charged in the case
 2-36 with an offense different from the offense with which the defendant
 2-37 was initially charged; and

2-38 (2) good cause to appoint new counsel is stated on the
 2-39 record as required by Article 26.04(j)(2).

2-40 SECTION 2. Article 15.17(e), Code of Criminal Procedure, is
 2-41 amended to read as follows:

2-42 (e) In each case in which a person arrested is taken before a
 2-43 magistrate as required by Subsection (a) or Article 15.18(a), a
 2-44 record shall be made of:

2-45 (1) the magistrate informing the person of the
 2-46 person's right to request appointment of counsel;

2-47 (2) the magistrate asking the person whether the
 2-48 person wants to request appointment of counsel; and

2-49 (3) whether the person requested appointment of
 2-50 counsel.

2-51 SECTION 3. Article 15.18, Code of Criminal Procedure, is
 2-52 amended by adding Subsection (a-1) to read as follows:

2-53 (a-1) If the arrested person is taken before a magistrate of
 2-54 a county other than the county that issued the warrant, the
 2-55 magistrate shall inform the person arrested of the procedures for
 2-56 requesting appointment of counsel and ensure that reasonable
 2-57 assistance in completing the necessary forms for requesting
 2-58 appointment of counsel is provided to the person at the same time.
 2-59 If the person requests the appointment of counsel, the magistrate
 2-60 shall, without unnecessary delay but not later than 24 hours after
 2-61 the person requested the appointment of counsel, transmit, or cause
 2-62 to be transmitted, the necessary request forms to a court or the
 2-63 courts' designee authorized under Article 26.04 to appoint counsel
 2-64 in the county issuing the warrant.

2-65 SECTION 4. Article 26.04(a), Code of Criminal Procedure, is
 2-66 amended to read as follows:

2-67 (a) The judges of the county courts, statutory county
 2-68 courts, and district courts trying criminal cases in each county,
 2-69 by local rule, shall adopt and publish written countywide

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

3-15 SECTION 5. The change in law made by this Act applies only
3-16 to a person who is arrested on or after the effective date of this
3-17 Act. A person arrested before the effective date of this Act is
3-18 governed by the law in effect on the date the person was arrested,
3-19 and the former law is continued in effect for that purpose.

3-20 SECTION 6. This Act takes effect September 1, 2015.

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