

CHAPTER 509

H.B. No. 449

AN ACT

relating to the appointment, duties, and compensation of a public defender for the 33rd Judicial District.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.045 to read as follows:

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Art. 26.045. PUBLIC DEFENDER IN 33RD JUDICIAL DISTRICT. (a) The 33rd District Court may appoint an attorney to serve as a public defender in the district court for indigents charged with a criminal offense in counties within the district, subject to the approval of the commissioners court of each participating county. If the commissioners court of a county within the district does not approve the appointment, that county is not a participating county and the public defender shall not represent indigent defendants in the district court in that county. The public defender serves at the pleasure of the district court.

(b) To be eligible to be appointed public defender, a person must:

(1) be a licensed member of the State Bar of Texas;

(2) have practiced law for at least three years; and

(3) have experience in the practice of criminal law.

(c) Except as provided by Subsection (f) of this article, a public defender shall represent each indigent person who is charged in the district court with a criminal offense.

(d) The public defender is entitled to receive an annual salary set by the district court in an amount that does not exceed the salary paid by the state to the district attorney serving the district.

(e) The district court may authorize the public defender to employ assistant public defenders, investigators, secretaries, and other necessary personnel. An assistant public defender must be an attorney licensed in this state and may perform the duties of the public defender under this article. Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes), applies to the compensation of these personnel and the payment of office expenses.

(f) The salary of the public defender, salaries of all employees of the public defender's office, and office expenses of the public defender's office shall be paid by participating counties on a pro rata basis in proportion to the population of each participating county. If a participating county does not pay its apportioned amount, the public defender is not required to represent indigent defendants in that county.

(g) The public defender may investigate the financial condition of a person the public defender is appointed to represent. The public defender shall report the results of the investigation to the appointing judge.

(h) If a judge who has appointed a public defender to represent a defendant determines, at any stage of a proceeding, that there is good cause to remove the public defender from the case, the judge may appoint another attorney to represent the defendant in the place of the public defender. An attorney who is appointed to represent an indigent defendant under this subsection is entitled to compensation as provided by Article 26.05 of this code.

(i) Except for the provisions relating to daily appearance fees, Article 26.05 of this code applies to a public defender appointed under this article.

(j) The commissioners court of a participating county may accept gifts and grants from any source to finance that county's apportioned share of the salaries and expenses of the office of public defender.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 12, 1987, by a non-record vote. Passed by the Senate on May 25, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.