

CHAPTER 702

S.B. No. 1449

AN ACT

relating to a public defender in Colorado County.

*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:

*Art. 26.045. PUBLIC DEFENDER IN COLORADO COUNTY. (a) The Commissioners Court of Colorado County may appoint an attorney to serve as a public defender. The public defender serves at the pleasure of the commissioners court.*

*(b) To be eligible for appointment as a public defender, a person must:*

- (1) be a member of the State Bar of Texas;*
- (2) have practiced law for at least two years; and*

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

(c) *With the approval of the commissioners court, the public defender may employ assistant public defenders, investigators, secretaries, and other necessary personnel. An assistant public defender must be a licensed attorney and may perform the duties of a public defender under this article.*

(d) *Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes), applies to the compensation of personnel and the payment of office expenses, except that the public defender may not receive a salary that is greater than the salary paid to the district attorney serving Colorado County.*

(e) *Except as authorized by this article, a public defender or assistant public defender may not:*

(1) *engage in the private practice of criminal law in any court in Colorado County; or*

(2) *accept anything of value not authorized by this article for services rendered under this article.*

(f) *The commissioners court may remove a public defender or assistant public defender who violates a provision of Subsection (e) of this article.*

(g) *The public defender or an assistant public defender shall represent each indigent person who is charged with a criminal offense in Colorado County and each indigent minor who is a party to a juvenile delinquency proceeding in the county.*

(h) *A public defender or an assistant public defender shall investigate the financial condition of any person the public defender is appointed to represent. The defender shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the defendant or minor is indigent and entitled to representation under this article.*

(i) *If at any stage of the proceeding the judge determines that a conflict of interest exists between the public defender and the defendant or minor, the judge may appoint another attorney to represent the person. The attorney must be licensed to practice law in this state and is entitled to the compensation provided by Article 26.05 of this code.*

(j) *Except for the provisions relating to daily appearance fees, Article 26.05 of this code applies to the public defender and assistant public defenders.*

(k) *The commissioners court may accept gifts and grants from any source to finance an adequate and effective public defender program.*

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. 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.

Passed the Senate on May 21, 1987, by the following vote: Yeas 30, Nays 0. Passed the House on May 29, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.