

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

In Support of full State Funding of Criminal 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 the U.S. and Texas Constitutions; and,

WHEREAS, the government, whether it is the state or the county, must pay these costs; 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, counties pay 88% of criminal indigent defense costs compared to the State's contribution of 12%; and,

WHEREAS, indigent defense in Texas is primarily funded through local property taxes, and,

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

WHEREAS, over half of the states in this nation fully fund indigent defense; and,

WHEREAS, over two-thirds of the states in this nation fund more than 50 percent of the costs for providing indigent defense; and,

WHEREAS, the Regional Public Defender's Office for Capital Cases is a Lubbock County program serving 178 counties; and,

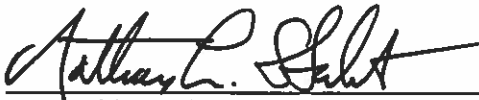
WHEREAS, in the most serious criminal cases where the death penalty is a possibility, the State has a unique interest in ensuring that appropriate defense representation is provided; and,

WHEREAS, Articles 16.22 and 17.032, Code of Criminal Procedure, provide for the early identification and release on a personal recognizance bond of arrestees with mental illness if an evaluation and treatment plan is in place; and,

WHEREAS, creating and enhancing defender programs to assist with implementation of Articles 16.22 and 17.032 statewide would provide access to specialized counsel and mental health professionals shortly after arrest, resulting in fewer jail days and earlier case resolution for arrestees.

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

- 1) Provide local property tax relief to Texas Counties by providing full state funding (100%) for criminal indigent defense through a stepped-up funding approach over the next six-year years by appropriating General Revenue in the amount of \$212 million or 50% of the expected spending on indigent defense in FY18/19 as part of a transition to full state funding by the FY22/23 biennium;
- 2) Support the statewide Regional Public Defender Office for Capital Cases by providing \$2.9 million from General Revenue to deliver necessary State support to the program;
- 3) Support early identification and representation of defendants with mental illness programs across the state by providing \$10 million in General Revenue to incentivize the statewide implementation of articles 16.22 and 17.032 of the Texas Code of Criminal Procedure; and,
- 4) Restore the four percent reduction in funding in the base budget since the program is already severely underfunded at current levels.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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