Sec. 79.001. DEFINITIONS. In this chapter:

(1) "Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

(2) "Board" means the governing board of the Texas Indigent Defense Commission.

(3) "Commission" means the permanent standing committee of the council known as the Texas Indigent Defense Commission.

(4) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.

(5) "Council" means the Texas Judicial Council.

(6) "Crime" means:
   (A) a misdemeanor punishable by confinement; or
   (B) a felony.

(7) "Defendant" means a person accused of a crime or a juvenile offense.

(8) "Executive director" means the executive director of the Texas Indigent Defense Commission.

(9) "Indigent defense support services" means criminal defense services that:
   (A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and
   (B) are reasonable and necessary for appointed
counsel to provide adequate representation to indigent defendants.

(10) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(11) "Managed assigned counsel program" has the meaning assigned by Article 26.047, Code of Criminal Procedure.

(12) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78.

(13) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.002. ESTABLISHMENT OF COMMISSION. (a) The Texas Indigent Defense Commission is established as a permanent standing committee of the council.

(b) The commission operates under the direction and supervision of a governing board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 79.011. ESTABLISHMENT OF BOARD; COMPOSITION. (a) The commission is governed by a board consisting of eight ex officio members and five appointive members.

(b) Except as provided by Section 79.033(b), the board shall exercise the powers and perform the duties under this chapter independently of the council.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.012. EXECUTIVE DIRECTOR. (a) The executive director is appointed by the board.

(b) The executive director:

(1) must be a licensed attorney;
(2) must demonstrate an interest in the standards for and provision of criminal defense services to indigent individuals;  
(3) may not engage in the private practice of law; and  
(4) may not accept money, property, or any other thing of value not authorized by law for services rendered under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.013. EX OFFICIO MEMBERS. The ex officio members of the board are:

(1) the following six members of the council:
   (A) the chief justice of the supreme court;
   (B) the presiding judge of the court of criminal appeals;
   (C) one of the members of the senate serving on the council who is designated by the lieutenant governor;
   (D) the member of the house of representatives appointed by the speaker of the house;
   (E) one of the courts of appeals justices serving on the council who is designated by the governor; and
   (F) one of the county court or statutory county court judges serving on the council who is designated by the governor or, if a county court or statutory county court judge is not serving on the council, one of the statutory probate court judges serving on the council who is designated by the governor;

(2) one other member of the senate appointed by the lieutenant governor; and

(3) the chair of the House Criminal Jurisprudence Committee.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.014. APPOINTMENTS. (a) The governor shall appoint with the advice and consent of the senate five members of the board as follows:

(1) one member who is a district judge serving as a
presiding judge of an administrative judicial region;

(2) one member who is a judge of a constitutional county court or who is a county commissioner;

(3) one member who is a practicing criminal defense attorney;

(4) one member who is a chief public defender in this state or the chief public defender's designee, who must be an attorney employed by the public defender's office; and

(5) one member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more.

(b) The board members serve staggered terms of two years, with two members' terms expiring February 1 of each odd-numbered year and three members' terms expiring February 1 of each even-numbered year.

(c) In making appointments to the board, the governor shall attempt to reflect the geographic and demographic diversity of the state.

(d) A person may not be appointed to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission or the council.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.015. PRESIDING OFFICER. The board shall select a chair from among its members.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.016. DISCLOSURE REQUIRED. (a) A board member who is a chief public defender or who is an attorney employed by a public defender's office in a county that applies for funds under Section 79.037 shall disclose that fact before a vote by the board regarding an award of funds to that county and may not participate in such a vote.

(b) A board member's disclosure under Subsection (a) must be
entered into the minutes of the board meeting at which the disclosure is made or reported, as applicable.

(c) The commission may not award funds under Section 79.037 to a county served by a chief public defender or other attorney who fails to make a disclosure to the board as required by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.017. VACANCIES. A vacancy on the board must be filled for the unexpired term in the same manner as the original appointment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.018. MEETINGS; QUORUM; VOTING. (a) The board shall meet at least four times each year and at such other times as it considers necessary or convenient to perform its duties.

(b) Six members of the board constitute a quorum for purposes of transacting the business of the board. The board may act only on the concurrence of five board members or a majority of the board members present, whichever number is greater. The board may adopt policies and standards under Section 79.034 only on the concurrence of seven board members.

(c) Except as provided by Section 79.016, a board member is entitled to vote on any matter before the board, except as otherwise provided by rules adopted by the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.019. COMPENSATION. A board member may not receive compensation for services on the board but is entitled to be reimbursed for actual and necessary expenses incurred in discharging board duties. The expenses are paid from funds appropriated to the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Sec. 79.020. IMMUNITY FROM LIABILITY. A member of the board performing duties on behalf of the board is not liable for damages arising from an act or omission within the scope of those duties.
Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.021. RULES. The board shall adopt rules as necessary to implement this chapter.
Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense account is an account in the general revenue fund that may be appropriated only to:

(1) the commission for the purpose of implementing this chapter; and

(2) the office of capital writs for the purpose of implementing Subchapter B, Chapter 78.
Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.032. ACCEPTANCE OF GIFTS, GRANTS, AND OTHER FUNDS; STATE GRANTS TEAM. (a) The commission may accept gifts, grants, and other funds from any public or private source to pay expenses incurred in performing its duties under this chapter.

(b) The State Grants Team of the Governor's Office of Budget, Planning, and Policy may assist the commission in identifying grants and other resources available for use by the commission in performing its duties under this chapter.
Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.033. ADMINISTRATIVE ATTACHMENT; SUPPORT; BUDGET.
(a) The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The office of court administration shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the commission as necessary to carry out the purposes of this chapter.

(c) The commission, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Office of Court Administration of the Texas Judicial System and is used to develop the commission's budget structure. The commission shall maintain the legislative appropriations request and budget structure separately from those of the office of court administration.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.034. POLICIES AND STANDARDS. (a) The commission shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent defendants;

(2) qualification standards under which attorneys may qualify for appointment to represent indigent defendants, including:

(A) qualifications commensurate with the seriousness of the nature of the proceeding;

(B) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(C) successful completion of relevant continuing legal education programs approved by the council; and

(D) testing and certification standards;

(3) standards for ensuring appropriate appointed
caseloads for counsel appointed to represent indigent defendants;  
  (4) standards for determining whether a person accused  
of a crime or juvenile offense is indigent;  
  (5) policies and standards governing the organization  
and operation of an assigned counsel program;  
  (6) policies and standards governing the organization  
and operation of a public defender's office consistent with  
recognized national policies and standards;  
  (7) standards for providing indigent defense services  
under a contract defender program consistent with recognized  
national policies and standards;  
  (8) standards governing the reasonable compensation  
of counsel appointed to represent indigent defendants;  
  (9) standards governing the availability and  
reasonable compensation of providers of indigent defense support  
services for counsel appointed to represent indigent defendants;  
  (10) standards governing the operation of a legal  
clinic or program that provides legal services to indigent  
defendants and is sponsored by a law school approved by the supreme  
court;  
  (11) policies and standards governing the appointment  
of attorneys to represent children in proceedings under Title 3,  
Family Code;  
  (12) policies and standards governing the  
organization and operation of a managed assigned counsel program  
consistent with nationally recognized policies and standards; and  
  (13) other policies and standards for providing  
indigent defense services as determined by the commission to be  
appropriate.

(b) The commission shall submit its proposed policies and  
standards developed under Subsection (a) to the board for adoption.  
The board shall adopt the proposed policies and standards as  
appropriate.

(c) Any qualification standards adopted by the board under  
Subsection (b) that relate to the appointment of counsel in a death  
penalty case must be consistent with the standards specified under  
Article 26.052(d), Code of Criminal Procedure. An attorney who is
identified by the commission as not satisfying performance or qualification standards adopted by the board under Subsection (b) may not accept an appointment in a capital case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS. (a) The commission shall develop a plan that establishes statewide requirements for counties relating to reporting indigent defense information. The plan must include provisions designed to reduce redundant reporting by counties and provisions that take into consideration the costs to counties of implementing the plan statewide. The commission shall use the information reported by a county to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense. The commission may revise the plan as necessary to improve monitoring of indigent defense policies, standards, and procedures in this state.

(b) The commission shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing any information submitted to the commission by a county under Section 79.036; and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent defendants;

(B) current indigent defense practices in the state as compared to state and national standards;

(C) efforts made by the commission to improve indigent defense practices in the state;

(D) recommendations made by the commission for improving indigent defense practices in the state; and

(E) the findings of a report submitted to the commission under Section 79.039.

(c) The commission shall annually submit to the Legislative Budget Board and council and shall publish in written and
(d) The commission may issue other reports relating to indigent defense as determined to be appropriate by the commission. Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.036. INDIGENT DEFENSE INFORMATION. (a) Not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any plan or proposal submitted to the commissioners court under Article 26.044, Code of Criminal Procedure;

(3) any plan of operation submitted to the commissioners court under Article 26.047, Code of Criminal Procedure;

(4) any contract for indigent defense services required under rules adopted by the commission relating to a contract defender program;

(5) any revisions to rules, forms, plans, proposals, or contracts previously submitted under this section; or

(6) verification that rules, forms, plans, proposals, or contracts previously submitted under this section still remain in effect.

Text of subsection effective on September 01, 2014

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information
provided to the county by those attorneys under Article 26.04(j)(4), Code of Criminal Procedure.

(b) Except as provided by Subsection (c):

(1) the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the district courts trying felony cases in the county; and

(2) the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms, the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the person designated by the judge, shall perform the action required by Subsection (a).

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

(1) in each district, county, statutory county, and appellate court;

(2) in cases for which a private attorney is appointed for an indigent defendant;

(3) in cases for which a public defender is appointed
for an indigent defendant;

(4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and

(5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 912 (H.B. 1318), Sec. 6, eff. September 1, 2014.

Sec. 79.037. TECHNICAL SUPPORT; GRANTS. (a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their indigent defense systems; and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) to assist counties in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section; and

(3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the county.

(b) The commission shall distribute funds as required by Subsection (a)(2) based on a county's compliance with standards adopted by the board and the county's demonstrated commitment to
compliance with the requirements of state law relating to indigent defense.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the commission under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.

Sec. 79.039. EXONERATION REPORT. (a) Each legal clinic or program in this state that is operated by a law school and that receives financial support from the commission shall submit to the commission an annual report regarding criminal cases:

(1) in which the clinic or program has provided legal services to an indigent defendant during the preceding calendar year; and

(2) in which:

(A) based on a finding of actual innocence, the court of criminal appeals overturns a conviction; or

(B) the governor issues a pardon based on actual innocence.

(b) The report required under Subsection (a) must:

(1) identify each likely cause of a wrongful conviction listed in the report; and

(2) recommend to the judiciary and the legislature best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

Added by Acts 2011, 82nd Leg., R.S., Ch. 984 (H.B. 1754), Sec. 1, eff. September 1, 2011.