
THIRD READING

Bill No: AB 690
Author: Schultz (D)
Amended: 8/13/26 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/24/25
AYES: Arreguín, Gonzalez, Pérez, Wiener
NOES: Seyarto
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/13/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 64-9, 6/2/25 - See last page for vote

SUBJECT: Criminal procedure: indigent defense compensation

SOURCE: California Attorneys for Criminal Justice; California Public Defenders Association; Silicon Valley De-Bug; Smart Justice

DIGEST: This bill, beginning January 1, 2028, establishes requirements for contracts or other memorandum of understanding for indigent services between a county or court and a law firm, and prohibits a county or court from entering into a flat fee or per case compensation contract for indigent defense services for any case in which a special circumstances murder is charged, or any other cases with charges carrying a potential sentence of death or life without the possibility of parole.

ANALYSIS:

Existing law:

- 1) States that a defendant in a criminal case has the right to, among other things, the assistance of counsel for their defense and to be personally present with

counsel. (California Constitution (Cal. Const.), art. I, § 15; U.S. Const., Amend. VI.)

- 2) Provides that any case in which a person desires but is unable to employ counsel, and in which counsel is assigned in the superior court to represent the person in a criminal trial, proceeding, or appeal, the following assigned counsel shall receive a reasonable sum for compensation and for necessary expenses, in an amount determined by the court, to be paid out of the general fund of the county:
 - a) In a county or city and county in which there is no public defender;
 - b) In a county of the first, second, or third class where there is no contract for criminal defense services between the county and one or more responsible attorneys;
 - c) In a case in which the court finds that, because of a conflict of interest or other reasons, the public defender has properly refused; and,
 - d) In a county of the first, second, or third class where attorneys contracted by the county are unable to represent the person accused. (Penal (Pen.) Code, § 987.2, subd. (a).)
- 3) Allows the sum of compensation to be paid to assigned counsel to be determined by a contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid. Provides that the amount of compensation awarded be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in those cases. (Pen. Code, § 987.2, subd. (b).)
- 4) Provides that whenever a court-appointed attorney is entitled to reasonable compensation and necessary expenses, the judge of the court shall consider the following factors, no one of which alone shall be controlling:
 - a) Customary fee in the community for similar services rendered by privately retained counsel to a non-indigent client;
 - b) The time and labor required to be spent by the attorney;
 - c) The difficulty of the defense;
 - d) The novelty or uncertainty of the law upon which the decision depended;
 - e) The degree of professional ability, skill, and experience called for and exercised in the performance of the services; and,
 - f) The professional character, qualification, and standing of the attorney. (Pen. Code, § 987.3.)

- 5) Encourages counties that utilize an assigned private counsel system to do all of the following:
 - a) Establish panels that shall be open to members of the State Bar of California;
 - b) Categorize attorneys for panel placement on the basis of experience;
 - c) Refer cases to panel members on a rotational basis within the level of experience of each panel, except as specified; and,
 - d) Seek to educate those panel members through an approved training program. (Pen. Code, § 987.2, subds. (c).)
- 6) Provides that in specified counties, the court shall first utilize the services of the public defender to provide criminal defense services for indigent defendants. In the event that the public defender is unavailable and the county and the courts have contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, the court shall utilize the services of the county-contracted attorneys prior to assigning any other private counsel. (Pen. Code, § 987.2, subd. (d).)
- 7) Provides that in the specified counties, if the public defender is unavailable and the county has created a second public defender and contracted with one or more responsible attorneys or with a panel of attorneys to provide criminal defense services for indigent defendants, and if the quality of representation provided by the second public defender is comparable to the quality of representation provided by the public defender, the court shall next utilize the services of the second public defender and then the services of the county-contracted attorneys prior to assigning any other private counsel. (Pen. Code, § 987.2, subd. (e).)
- 8) Requires counsel be appointed in a misdemeanor case, if a person desires but is unable to employ counsel, and it appears that the appointment is necessary to provide an adequate and effective defense for the defendant. (Pen. Code, § 987.2, subd. (i).)
- 9) Provides that in capital cases or cases with indigent defendants, counsel may request the court for funds for the specific payment of investigators, experts, and others for the preparation or presentation of the defense. (Pen. Code, § 987.9, subd. (a).)
- 10) States that in assigning defense counsel in felony cases, whether it is the public defender or private counsel, the court shall only assign counsel who represents, on the record, that they will be ready to proceed with the preliminary hearing or

trial within the time periods prescribed for these hearings, except in unusual cases, as specified. (Pen. Code, § 987.05.)

This bill:

- 1) Requires, as of January 1, 2027, a contract or memorandum of understanding between a county or court and a law firm, individual attorney, or other legal entity for the provision or administration of indigent defense services to comply with the following:
 - a) The county or court must consider the following when preparing a contract or memorandum of understanding for indigent defense services:
 - i) California Standards for Contract and Panel Defense Systems.
 - ii) The full workload and professional responsibilities of the attorney or firm, including time for work in other cases in addition to work performed pursuant to the indigent services contract.
 - iii) The National Public Defense Workload Study by the RAND Corporation published in 2023, or a later workload study identified by the Office of the State Public Defender (OSPD) and agreed upon by the California Public Defenders Association and California Attorneys for Criminal Justice.
 - b) Requires attorneys to comply with ethical rules of representation and make reasonable efforts to meet with their clients outside of court appearances.
 - c) Requires, if the contract is with a private entity or law firm to manage indigent defense services, there must be a provision requiring the contractor to maintain a website with contact information, as specified. Requires attorneys to have a phone number that accepts jail and prison calls and a functional voicemail.
 - d) Requires the contract amount and structure to ensure that attorneys have the resources and time necessary to consult with clients, assess discovery, conduct fact investigations, file motions, and perform any other relevant tasks to ensure competent legal representation.
 - e) Requires all contracts to identify the amount of funds allocated for attorney's fees and separately specify the amount of any allocation for any case-related defense services, including, but not limited to, investigators, social workers, and immigration counsel. Requires these ancillary service funds to be separate and in addition to funds allocated for attorney compensation, and states there is not a penalty for contracted attorneys accessing those funds.
- 2) Prohibits a county or court from entering into flat fee or per case compensation contracts for the administration or provision of indigent defense services for any

case in which a special circumstances murder is charged, or any other cases with charges carrying a potential sentence of death or life without the possibility of parole. Specifies that “flat fee” means a compensation structure that provides a fixed dollar amount for each case, or for an unlimited number of cases, without regard to the actual time and resources required to provide competent and zealous representation in each case.

- 3) Requires the contract to include a provision that affords the contractor a process to seek a modification of the contract amount if the number of cases handled or the costs of providing competent legal representation exceed the amount reasonably contemplated at the beginning of the contract period.
- 4) Requires that counties that contract with a private entity or law firm to provide indigent defense services for that county shall provide these contracts for indigent defense services to the OSPD every two years, beginning on January 1, 2028.
- 5) Makes these provisions applicable to any memorandum of understanding, contract, contract amendment, or contract extension for the provision or administration of indigent defense services entered into or elected by any county or court in California on or after January 1, 2028.

Background

The U.S. and California constitutions provide every criminal defendant a right to legal representation, regardless of their ability to pay for an attorney. (Cal. Const. art. I, § 15; U.S. Const., Amend. VI.) In California, there is no statewide governance of how indigent defense services are provided. Instead, each county has established its own system for providing attorneys to indigent defendants. (<https://www.ppica.org/blog/californias-leading-role-in-providing-criminal-defense-to-the-poor/>.) According to a 2023 report by the OSPD, 33 counties use a county public defender’s office as the primary way to provide indigent defense services, meaning the attorneys representing most indigent defendants are county employees. Twenty-one counties use a contract model, meaning the county has a contract with a law firm or with individual attorneys who are paid by the county to represent criminal defendants. Most counties contract for some level of services, including for “conflict counsel” – attorneys who can represent a defendant when a conflict of interest prevents another attorney from providing representation. There are currently no statewide standards for contracts for indigent defense services.

This bill establishes uniform requirements for contracts for indigent defense services. This bill requires each county to submit its contracts to OSPD but does not provide OSPD with direct oversight over the contracts. Perhaps most significantly, the bill prohibits a county or court from entering into a flat fee contract for indigent defense services for any case in which a special circumstances murder is charged, or any other cases with charges carrying a potential sentence of death or life without the possibility of parole.

By banning flat fee contracts and revising the process and requirements when contracting for or otherwise entering into agreements for indigent defense services, this bill is directed at providing better compensation for these services, and, as a result, better representation for indigent defendants.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

Costs (local funds, General Fund) of an unknown but potentially significant amount to counties affected by the contracting requirements in this bill. Counties with contracts that already comply will likely not incur any costs. However, counties with non-complying contracts may incur potentially significant workload costs to ensure new contracts meet the bill's requirements. General Fund costs will depend on whether each of the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

Unknown, potentially minor and absorbable costs to Judicial Council (Trial Court Trust Fund, General Fund) to ensure contracts comply with this bill's requirements. The Judicial Council notes that the courts are responsible for providing indigent defense counsel at the appellate level. While the courts may be involved in the decision at the trial court level of who is provided an indigent defense counsel contract, it is ultimately the counties who enter into the contract and pay for this service. The Judicial Council does not anticipate this bill to impact the appellate contracts as they already meet the requirements of the bill. At the trial court level, some rural courts have noted concerns about the ability to contract with qualified attorneys under these new provisions and flagged general concerns about the references to the RAND study and the Office of the State Public Defender (OSPD) standards being overly broad. While the trial courts' budgets will not be directly impacted by these changes, there may be some operational and workload aspects as courts work with their county partners to approve and enter into these contracts.

Minor and absorbable costs (General Fund) to the OSPD. OSPD does not anticipate this bill to have a meaningful fiscal impact on its operations. OSPD reports that collecting contracts on a biannual basis can be absorbed by current staff. If an evaluation of the contracts to determine whether flat fees were utilized, that could also be conducted on a biannual basis with current staffing levels. The only anticipated costs would be minor increases to data storage and online publication costs that are unlikely to be realized prior to 2029.

SUPPORT: (Verified 8/13/25)

California Attorneys for Criminal Justice (co-source)
California Public Defenders Association (co-source)
Smart Justice (co-source)
Silicon Valley De-Bug (co-source)
ACLU California Action
California Alliance for Youth and Community Justice
California Innocence Coalition
Communities United for Restorative Youth Justice
Courage California
Death Penalty Focus
Drug Policy Alliance
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Fair Chance Project
Friends Committee on Legislation of California
Full Picture Justice
Initiate Justice
Initiate Justice Action
Justice2Jobs Coalition
La Defensa
Local 148 LA County Public Defenders Union
National Association of Criminal Defense Lawyers
Peace and Justice Law Center
Players Coalition
Reuniting Families Contra Costa
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
Starting Over
Starting Over Strong

The W. Haywood Burns Institute
Uncommon Law
Vera Institute of Justice
Wren Collective

OPPOSITION: (Verified 8/13/25)

California State Association of Counties
County of Butte
Fresno County Board of Supervisors
Kings County Board of Supervisors
Rural County Representatives of California
Urban Counties of California

ASSEMBLY FLOOR: 64-9, 6/2/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Davies, DeMaio, Dixon, Ellis, Gallagher, Hadwick, Macedo, Patterson, Tangipa

NO VOTE RECORDED: Castillo, Chen, Flora, Jeff Gonzalez, Hoover, Sanchez

Prepared by: Alex Barnett / Public Safety / (916)651-4118
8/17/26 10:54:40

**** **END** ****