

By: Gervin-Hawkins

H.B. No. 507

A BILL TO BE ENTITLED

AN ACT

1
2 relating to policies and standards for providing legal
3 representation to indigent defendants in certain capital felony
4 cases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 26.052, Code of Criminal Procedure, is
7 amended by adding Subsections (c-1) and (c-2) and amending
8 Subsections (d) and (m) to read as follows:

9 (c-1) Each local selection committee described by
10 Subsection (c) shall evaluate and determine the list of attorneys
11 in the applicable administrative judicial region qualified under
12 this article to be appointed to represent indigent defendants in
13 capital cases in which the death penalty is sought and post the list
14 on the Internet website of that administrative judicial region.

15 (c-2)(1) A statewide capital defense training and standards
16 committee is created. The committee must be composed of nine
17 members, including:

18 (A) two judges jointly selected by the presiding
19 judges of the administrative judicial regions;

20 (B) a criminal defense attorney appointed by the
21 president of the Texas Criminal Defense Lawyers Association;

22 (C) the chief public defender of the Regional
23 Public Defender for Capital Cases office, or the chief public
24 defender's designee;

1 (D) the chief capital defender of a county public
2 defender office appointed by the executive director of the Texas
3 Indigent Defense Commission;

4 (E) a member of the State Bar of Texas committee
5 on legal services to the poor in criminal matters selected by the
6 chair of the committee; and

7 (F) three attorneys appointed by the executive
8 director of the Texas Indigent Defense Commission.

9 (2) Each member of the statewide capital defense
10 training and standards committee must:

11 (A) be a licensed attorney; and

12 (B) have significant experience in capital
13 defense or indigent criminal defense policy or practice.

14 (3) A member of the statewide capital defense training
15 and standards committee may not be a prosecutor, a law enforcement
16 officer, or an employee of the office of capital and forensic writs.

17 (4) Members of the statewide capital defense training
18 and standards committee serve four-year terms and may be
19 reappointed. If a vacancy occurs, the appropriate appointing
20 authority shall appoint a successor in the same manner as the
21 original appointment to serve for the remainder of the unexpired
22 term.

23 (5) The members of the statewide capital defense
24 training and standards committee shall select a chair from among
25 the committee's members.

26 (6) A member of the statewide capital defense training
27 and standards committee may not receive compensation for service on

1 the committee but is entitled to be reimbursed for actual and
2 necessary expenses incurred in discharging committee duties. The
3 expenses are paid from funds appropriated to the Texas Indigent
4 Defense Commission.

5 (7) The Texas Indigent Defense Commission shall
6 provide administrative support to the statewide capital defense
7 training and standards committee as necessary to carry out the
8 purposes of the committee.

9 (d)(1) The statewide capital defense training and standards
10 committee created under Subsection (c-2) shall adopt policies and
11 standards for providing legal representation [~~the qualification of~~
12 ~~attorneys to be appointed~~] to [~~represent~~] indigent defendants in
13 capital cases in which the death penalty is sought. The policies and
14 standards must include, with respect to the qualification of
15 attorneys to be appointed in capital cases, the following:

- 16 (A) training requirements and curricula;
17 (B) qualification standards;
18 (C) continuing legal education requirements; and
19 (D) other policies and standards as necessary to
20 ensure quality legal representation in capital cases.

21 (2) The standards described by Subdivision (1) must
22 require that a trial attorney appointed as lead counsel to a capital
23 case:

- 24 (A) be a member of the State Bar of Texas;
25 (B) exhibit proficiency and commitment to
26 providing quality representation to defendants in death penalty
27 cases;

1 (C) have not been found by a local selection
2 committee described by Subsection (c) to have provided deficient
3 legal representation [~~a federal or state court to have rendered~~
4 ~~ineffective assistance of counsel~~] during the trial or appeal of
5 any capital case if [~~, unless~~] the local selection committee has
6 determined [~~determines under Subsection (n)~~] that the conduct
7 underlying the deficient representation [~~finding no longer~~]
8 accurately reflects the attorney's inability [~~ability~~] to provide
9 effective representation in the future;

10 (D) have at least five years of criminal law
11 experience;

12 (E) have tried to a verdict as lead defense
13 counsel a significant number of felony cases, including homicide
14 trials and other trials for offenses punishable as second or first
15 degree felonies or capital felonies;

16 (F) have trial experience in[+
17 [~~(i)~~] the use of and challenges to mental
18 health or forensic expert witnesses[+] and have:

19 (i) trial experience in [~~(ii)~~]
20 investigating and presenting mitigating evidence at the penalty
21 phase of a death penalty trial, regardless of whether:

22 (a) the case resulted in a judgment or
23 dismissal; or

24 (b) the state subsequently waived the
25 death penalty in the case; or

26 (ii) an equivalent amount of trial
27 experience, as determined by the applicable local selection

1 committee; and

2 (G) have participated in continuing legal
3 education courses or other training relating to criminal defense in
4 death penalty cases.

5 (3) The standards described by Subdivision (1) must
6 require that an attorney appointed as lead appellate counsel in the
7 direct appeal of a capital case:

8 (A) be a member of the State Bar of Texas;

9 (B) exhibit proficiency and commitment to
10 providing quality representation to defendants in death penalty
11 cases;

12 (C) have not been found by a local selection
13 committee described by Subsection (c) to have provided deficient
14 legal representation [~~a federal or state court to have rendered~~
15 ~~ineffective assistance of counsel~~] during the trial or appeal of
16 any capital case if [~~, unless~~] the local selection committee has
17 determined [~~determines under Subsection (n)~~] that the conduct
18 underlying the deficient representation [~~finding no longer~~]
19 accurately reflects the attorney's inability [~~ability~~] to provide
20 effective representation in the future;

21 (D) have at least five years of criminal law
22 experience;

23 (E) have authored a significant number of
24 appellate briefs, including appellate briefs for homicide cases and
25 other cases involving an offense punishable as a capital felony or a
26 felony of the first degree or an offense described by Article
27 [42A.054\(a\)](#);

1 (F) have trial or appellate experience in[+]
 2 [~~(i)~~] the use of and challenges to mental
 3 health or forensic expert witnesses[+] and have:

4 (i) trial or appellate experience in [~~(ii)~~]
 5 the use of mitigating evidence at the penalty phase of a death
 6 penalty trial, regardless of whether:

7 (a) the case resulted in a judgment or
 8 dismissal; or

9 (b) the state subsequently waived the
 10 death penalty in the case; or

11 (ii) an equivalent amount of trial or
 12 appellate experience, as determined by the applicable local
 13 selection committee; and

14 (G) have participated in continuing legal
 15 education courses or other training relating to criminal defense in
 16 appealing death penalty cases.

17 (4) The Texas Indigent Defense Commission [~~committee~~]
 18 shall prominently post the policies and standards adopted by the
 19 statewide capital defense training and standards committee under
 20 Subdivision (1) on the commission's Internet website [~~in each~~
 21 ~~district clerk's office in the region with a list of attorneys~~
 22 ~~qualified for appointment]~~.

23 (5) Not later than the second anniversary of the date
 24 an attorney is placed on a local selection committee's [~~the~~] list of
 25 attorneys qualified for appointment in death penalty cases under
 26 Subsection (c-1) and each year following the second anniversary,
 27 the attorney must present a list of death penalty trial, direct

1 appeal, and habeas corpus cases in which the attorney served as
2 counsel and proof to the local selection committee for the
3 applicable administrative judicial region that the attorney has
4 successfully completed the training, minimum continuing legal
5 education requirements, and other standards adopted by the
6 statewide capital defense training and standards committee under
7 Subdivision (1) [~~of the State Bar of Texas, including a course or~~
8 ~~other form of training relating to criminal defense in death~~
9 ~~penalty cases or in appealing death penalty cases, as applicable~~].
10 The applicable local selection committee shall remove the
11 attorney's name from the list of qualified attorneys under
12 Subsection (c-1) if the attorney fails to provide the local
13 selection committee with the materials required under this
14 subdivision [~~proof of completion of the continuing legal education~~
15 ~~requirements~~].

16 (m) Each [~~The~~] local selection committee shall annually
17 review the list of attorneys posted under Subsection (c-1) [~~(d)~~] to
18 ensure that each listed attorney satisfies the requirements under
19 this chapter.

20 SECTION 2. Article 26.052(n), Code of Criminal Procedure,
21 is repealed.

22 SECTION 3. The change in law made by this Act applies only
23 to a capital felony case that is filed on or after the effective
24 date of this Act. A capital felony case that is filed before the
25 effective date of this Act is governed by the law in effect on the
26 date the case was filed, and the former law is continued in effect
27 for that purpose.

1 SECTION 4. This Act takes effect September 1, 2025.