

Amend SB 600 (house committee printing) by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. (a) Sections 2(c) and (d), Article 11.071, Code of Criminal Procedure, are amended to read as follows:

(c) At the earliest practical time, but in no event later than 30 days, after the convicting court makes the findings required under Subsections (a) and (b), the convicting court shall appoint competent counsel that meets the requirements of Subsection (d)(2), unless the applicant elects to proceed or is represented by retained counsel. The convicting court may also appoint an attorney to assist an attorney appointed as lead counsel in the case. The assisting attorney is required to meet the requirements of Subsections (d)(2)(A) and (F) but is not required to meet the requirements of Subsections (d)(2)(B)-(E). On appointing counsel under this section, the convicting court shall immediately notify the court of criminal appeals of the appointment, including in the notice a copy of the judgment and the name, address, and telephone number of the appointed counsel.

(d)(1) The Task Force on Indigent Defense ~~[court of criminal appeals]~~ shall adopt standards ~~[rules]~~ for the appointment of attorneys as counsel under this section ~~[and the convicting court may appoint an attorney as counsel under this section only if the appointment is approved by the court of criminal appeals in any manner provided by those rules]~~.

(2) The standards must require that an attorney appointed as lead counsel under this section:

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

(B) exhibit proficiency and commitment to providing quality representation to defendants or applicants seeking relief in death penalty cases;

(C) have at least five years of experience in criminal trial litigation, appellate practice, or habeas corpus practice;

(D) have, in the three years preceding the appointment, appeared in federal or state court as counsel in at least three trial, appellate, or habeas corpus proceedings for

offenses punished as felonies of the first degree or capital felonies;

(E) have, in the year preceding the appointment, participated in continuing legal education courses or other training relating to criminal defense or habeas corpus proceedings in death penalty cases; and

(F) not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any felony case.

(3) The Task Force on Indigent Defense may maintain a list of attorneys qualified for appointment under this section and make that list available to a convicting court for the purpose of assisting that court with the appointment of qualified counsel under this section.

(4) The convicting court may not appoint an attorney as counsel under this section if the attorney represented the applicant at trial or on direct appeal, unless:

(A) the applicant and the attorney request the appointment on the record; and

(B) the court finds good cause to make the appointment.

(b) Section 71.060(c), Government Code, is amended to read as follows:

(c) Any qualification standards adopted by the Task Force on Indigent Defense under Subsection (a) that relate to the appointment of counsel in a death penalty case must be consistent with the standards specified under Section 2, Article 11.071, or Article 26.052(d), Code of Criminal Procedure, as appropriate. An attorney who is identified by the task force as not satisfying performance or qualification standards adopted by the task force under Subsection (a) may not accept an appointment in a capital case.

(c) The Task Force on Indigent Defense shall adopt standards described by Section 2(d), Article 11.071, Code of Criminal Procedure, as amended by this section, not later than February 1, 2004.

(d) A convicting court that appoints counsel under Section

2, Article 11.071, Code of Criminal Procedure, on or after the 15th day after the day on which the Task Force on Indigent Defense adopts standards described by Section 2(d), Article 11.071, Code of Criminal Procedure, as amended by this section, shall appoint the counsel in conformity with this section. Counsel appointed under Section 2, Article 11.071, Code of Criminal Procedure, before the 15th day after the date the standards are adopted must be appointed in conformity with Section 2, Article 11.071, Code of Criminal Procedure, as that section existed immediately before the effective date of this section, and the former law is continued in effect for that purpose.