

Amend **HB 1267** (Senate committee printing) by striking SECTIONS 1 and 2 and adding the following appropriately numbered SECTIONS:

SECTION __. Subsection (d), Article 26.052, Code of Criminal Procedure, as amended by Chapters 787 and 965, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(d)(1) The committee shall adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

(2) The standards must require that a trial attorney appointed as lead counsel to a capital case ~~[or an attorney appointed as lead appellate counsel in the direct appeal of a capital case]~~:

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

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

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the conduct underlying the finding fails to accurately reflect the attorney's current ability to provide effective representation;

(D) have at least five years of criminal law experience ~~[in criminal litigation]~~;

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

(F) have trial experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in

death penalty cases.

(3) The standards must require that an attorney appointed as lead appellate counsel in the direct appeal of a capital case:

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

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

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, unless the conduct underlying the finding fails to accurately reflect the attorney's current ability to provide effective representation;

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

(E) have authored a significant number of appellate briefs, including appellate briefs for homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first degree or an offense described by Section 3g(a)(1), Article 42.12;

(F) have trial or appellate experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) the use of mitigating evidence at the penalty phase of a death penalty trial; and

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

(4) The committee shall prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

(5) ~~[(4)]~~ Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas,

including a course or other form of training relating to criminal
[~~the~~] defense in [~~of~~] death penalty cases or in appealing death
penalty cases, as applicable. The committee shall remove the
attorney's name from the list of qualified attorneys if the
attorney fails to provide the committee with proof of completion of
the continuing legal education requirements.

SECTION _____. A local selection committee shall amend
standards previously adopted by the committee to conform with the
requirements of Subsection (d), Article 26.052, Code of Criminal
Procedure, as amended by this Act, not later than the 75th day after
the effective date of this Act. An attorney appointed to a death
penalty case on or after the 75th day after the effective date of
this Act must meet the standards adopted in conformity with amended
Subsection (d), Article 26.052, Code of Criminal Procedure. An
attorney appointed to a death penalty case before the 75th day after
the effective date of this Act is covered by the law in effect when
the attorney was appointed, and the former law is continued in
effect for that purpose.