

BILL ANALYSIS

H.B. 3323
By: McClendon
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current statute outlines the required qualifications for attorneys appointed to represent indigent defendants in capital cases in which the death penalty is sought. One of these requirements states that trial attorneys appointed as lead counsel to capital cases must not have been found to have rendered ineffective assistance of counsel during the trial or appeal of any capital case. However, sometimes a finding of ineffective assistance of counsel does not reflect an attorney's actual ability to serve as lead counsel on these cases. For example, attorneys who are forced to leave a case for personal reasons can be found ineffective, even if they would be able to provide excellent service to indigent defendants in future cases.

H.B. 3323 provides an avenue through which local selection committees can review the circumstances and make a determination on an attorney's current ability to provide effective representation following a judicial finding that the attorney previously rendered ineffective assistance of counsel in a capital case. This legislation seeks to provide capable, qualified attorneys who can effectively represent indigent defendants a second chance to be of service to the state and help provide due process of law for indigent defendants.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3323 amends the Code of Criminal Procedure to require the local selection committee in an administrative judicial region that adopts standards for the qualifications of attorneys to be appointed to represent indigent defendants in death penalty cases to make a determination, at the request of an attorney, regarding an attorney's current ability to provide effective representation following a judicial finding that the attorney previously rendered ineffective assistance of counsel in a capital case.

H.B. 3323 creates an exception to the standard for qualification as a trial attorney appointed as lead counsel to a capital case or lead appellate counsel in the direct appeal of a capital case requiring the attorney to 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, if a local selection committee makes the determination previously described that the conduct underlying the federal or state court finding no longer accurately reflects the attorney's ability to provide effective representation. The bill requires a local selection committee, not later than the 30th day after the bill's effective date, to amend its standards as necessary to conform with the bill's provisions.

EFFECTIVE DATE

September 1, 2011.