

Introduced by Senator Anderson

February 22, 2013

An act to amend Section 190.8 of the Penal Code, relating to capital punishment.

LEGISLATIVE COUNSEL'S DIGEST

SB 779, as introduced, Anderson. Capital punishment: appeals.

Existing law requires the record on appeal in any case in which a death sentence has been imposed to be expeditiously certified in 2 stages, first for completeness and 2nd for accuracy. Existing law requires the clerk of the superior court to provide trial counsel copies of the clerk's transcript within 30 days of the imposition of the death sentence. Existing law requires trial counsel to alert the court's attention to any errors in the transcripts incidentally discovered by counsel while reviewing them in the normal course of trial preparation. Existing law requires the trial court to certify the record for completeness and for incorporation of all corrections no later than 90 days after entry of the imposition of the death sentence unless good cause is shown, except that existing law provides this time period may be extended if the trial transcript exceeds 10,000 pages.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 190.8 of the Penal Code is amended to
2 read:

1 190.8. (a) In any case in which a death sentence has been
2 imposed, the record on appeal shall be expeditiously certified in
3 two stages, the first for completeness and the second for accuracy,
4 as provided by this section. The trial court may use all reasonable
5 means to ensure compliance with all applicable statutes and rules
6 of court pertaining to record certification in capital appeals,
7 including, but not limited to, the imposition of sanctions.

8 (b) Within 30 days of the imposition of the death sentence, the
9 clerk of the superior court shall provide to trial counsel copies of
10 the clerk's transcript and shall deliver the transcript as provided
11 by the court reporter. Trial counsel shall promptly notify the court
12 if he or she has not received the transcript within 30 days.

13 (c) (1) During the course of a trial in which the death penalty
14 is being sought, trial counsel shall alert the court's attention to any
15 errors in the transcripts incidentally discovered by counsel while
16 reviewing them in the ordinary course of trial preparation. The
17 court shall periodically request that trial counsel provide a list of
18 errors in the trial transcript during the course of trial and may hold
19 hearings in connection therewith.

20 ~~Corrections~~(2) *Corrections* to the record shall not be required
21 to include immaterial typographical errors that cannot conceivably
22 cause confusion.

23 (d) The trial court shall certify the record for completeness and
24 for incorporation of all corrections, as provided by subdivision
25 (c), no later than 90 days after entry of the imposition of the death
26 sentence unless good cause is shown. However, this time period
27 may be extended for proceedings in which the trial transcript
28 exceeds 10,000 pages in accordance with the timetable set forth
29 in, or for good cause pursuant to the procedures set forth in, the
30 rules of court adopted by the Judicial Council.

31 (e) Following the imposition of the death sentence and prior to
32 the deadline set forth in subdivision (d), the trial court shall hold
33 one or more hearings for trial counsel to address the completeness
34 of the record and any outstanding errors that have come to their
35 attention and to certify that they have reviewed all docket sheets
36 to ensure that the record contains transcripts for any proceedings,
37 hearings, or discussions that are required to be reported and that
38 have occurred in the course of the case in any court, as well as all
39 documents required by this code and the rules adopted by the
40 Judicial Council.

1 (f) The clerk of the trial court shall deliver a copy of the record
2 on appeal to appellate counsel when the clerk receives notice of
3 counsel's appointment or retention, or when the record is certified
4 for completeness ~~under~~ *pursuant to* subdivision (d), whichever is
5 later.

6 (g) The trial court shall certify the record for accuracy no later
7 than 120 days after the record has been delivered to appellate
8 counsel. However, this time may be extended pursuant to the
9 timetable and procedures set forth in the rules of court adopted by
10 the Judicial Council. The trial court may hold one or more status
11 conferences for purposes of timely certification of the record for
12 accuracy, as set forth in the rules of court adopted by the Judicial
13 Council.

14 (h) The Supreme Court shall identify in writing to the Judicial
15 Council any case that has not met the time limit for certification
16 of the record for completeness ~~under~~ *pursuant to* subdivision (d)
17 or for accuracy ~~under~~ *pursuant to* subdivision (g), and shall identify
18 those cases, and its reasons, for which it has granted an extension
19 of time. The Judicial Council shall include this information in its
20 annual report to the Legislature.

21 (i) As used in this section, "trial counsel" means both the
22 prosecution and the defense counsel in the trial in which the
23 sentence of death has been imposed.

24 (j) This section shall be implemented pursuant to rules of court
25 adopted by the Judicial Council.

26 (k) This section shall only apply to those proceedings in which
27 a sentence of death has been imposed following a trial that was
28 commenced on or after January 1, 1997.

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