

Introduced by Senator Harman

February 11, 2010

An act to amend Section 68661 of, and to add Section 68667 to, the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1025, as introduced, Harman. Courts: California Habeas Corpus Resource Center.

Existing law establishes in the judicial branch of state government the California Habeas Corpus Resource Center and specifies the powers and duties of the center, including the authority to employ up to 34 attorneys who may be appointed by the Supreme Court to represent any person convicted and sentenced to death in this state who is without counsel and determined to be indigent, for the purpose of instituting and prosecuting postconviction actions, challenging the legality of the judgment or sentence, and preparing petitions for executive clemency.

This bill would remove the limitation on the number of attorneys who may be employed by the California Habeas Corpus Resource Center. The bill would also require the Supreme Court to develop necessary rules and procedures for initiating habeas corpus proceedings in the superior court, as specified.

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

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

- 1 SECTION 1. Section 68661 of the Government Code is
- 2 amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ ~~up to 34~~ attorneys who may be appointed by the Supreme Court to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting postconviction actions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, and preparing petitions for executive clemency. An appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the Supreme Court in recruiting members of the private bar to accept death penalty habeas corpus case appointments.

(d) To establish and periodically update a roster of attorneys qualified as counsel in postconviction proceedings in capital cases.

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in postconviction proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel under appointment by the Supreme Court, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice or, to the extent not otherwise available, any other assistance to appointed counsel in postconviction proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in postconviction proceedings in capital cases and to make those briefs available to appointed counsel.

1 (i) To evaluate cases and recommend assignment by the court
2 of appropriate attorneys.

3 (j) To provide assistance and case progress monitoring as
4 needed.

5 (k) To timely review case billings and recommend compensation
6 of members of the private bar to the court.

7 (l) The center shall report annually to the Legislature, the
8 Governor, and the Supreme Court on the status of the appointment
9 of counsel for indigent persons in postconviction capital cases,
10 and on the operations of the center. On or before January 1, 2000,
11 the Legislative Analyst's Office shall evaluate the available reports.

12 SEC. 2. Section 68667 is added to the Government Code, to
13 read:

14 68667. The Supreme Court shall develop necessary rules and
15 procedures for initiating habeas corpus proceedings in the superior
16 court arising out of a judgment of death, including, but not limited
17 to, establishing timeframes and standards for ordering a hearing,
18 providing for appointment and compensation of counsel, and
19 detailing appellate procedures.