

## HOUSE AMENDMENT 1 TO sb392.

deleting line 6 of page 1 in its entirety and substituting therefor the following new House sponsor line:

"By: Representatives Hale, Willems, Wooldridge, Curran, Cook, Ferguson, Faris, and Rodgers"

AND

by deleting the following words as they appear on lines 12 and 13 of the title on page 1:

"PURSUANT TO ARKANSAS RULES OF CRIMINAL PROCEDURE 37"

AND

by deleting the words "subsection (c)" on line 9 of page 2 and substituting therefor

"§ 16-91-202(c)"

AND

by inserting at the beginning of line 11 of page 2 immediately before the word "former" the phrase "attorneys, including but not limited to,"

AND

by deleting the words "who have not met" at the end of line 12 of page 2 and substituting therefor the words "do not meet"

AND

by deleting the word "lease" as it appears on line 33 of page 2 and substituting therefor the word "least"

AND

by deleting lines 1 through 8 on page 3 in their entireties and substituting therefor the following:

"(a) (1) If a capital conviction and sentence are affirmed on direct appeal, the circuit court in which the conviction was obtained shall, within two (2) weeks after the affirmance, conduct a hearing and enter a written order appointing counsel to represent the petitioner in a post-conviction proceeding upon issuance of the mandate by the appellate court, should the petitioner desire to pursue such a post-conviction proceeding. Counsel s appointment shall remain effective through any appeal of the post-conviction proceeding in state court. Counsel shall be appointed only after a finding by the court that the petitioner is indigent and that he either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the petitioner only upon a written finding that the petitioner rejects the appointment of counsel and understands the legal consequences of that decision or upon a finding that the petitioner is not indigent.

(2) The court may not appoint an attorney as counsel under this sub section if the attorney represented the petitioner at trial or on direct appeal of the conviction under attack unless the petitioner and the attorney request appointment on the record. If

counsel is the same attorney who represented the petitioner at trial or on direct appeal, the court shall appoint a second counsel to assist in the preparation of the petition for post-conviction relief. If the petitioner elects to proceed pro se, the waiver of the assistance of counsel shall be made in open court on the record."

AND

by deleting "(2)" as it appears at the beginning of line 9 of page 2 and substituting therefor "(b) (1)"

AND

by deleting the words "was filed and to the Attorney General" on line 12 of page 3 and substituting therefor "was filed, to the Attorney General, and to the Executive Director of the Arkansas Public Defender Commission"

AND

by deleting "(3)" as it appears at the beginning of line 16 of page 2 and substituting therefor "(2)"

AND

by adding on line 21 of page 3, after the word "court" and before the period (.) the phrase "in the manner set forth in subsection (h)"

AND

by deleting lines 22 through 36 on page 3 and lines 1, 2, and 3 on page 4 in their entirety and substituting therefor the following:

"(c) The following standards are the exclusive criteria which counsel must satisfy in order to be appointed under subsection (a). At least one of the attorneys appointed to represent the applicant:"

AND

by inserting on line 9 of page 4 immediately after the word "three" the words "state or federal"

AND

by deleting the word and punctuation "and;" on line 25 of page 4 and substituting therefor a period (.)

AND

by deleting lines 26, 27, and 28 of page 4 in their entirety

AND

by deleting lines 34, 35, and 36 of page 4 and lines 1, 2, 3, 4, and 5 of page 5 in their entirety and substituting therefor "this subsection, is available."

AND

by deleting the word "subdivision" as it appears at the beginning of line 9 of page 5 and substituting therefor the word "subsection"

AND

by deleting the word "defendant" on line 13 of page 5 and substituting therefor the word "petitioner"

AND

by deleting the following words on line 19 of page 5: "or substantially satisfy those criteria"

AND

by inserting at the beginning of line 28 immediately before the word "Prior" the following language:

"In addition, such counsel shall have successfully completed, within the two (2) years immediately preceding the appointment for which he is under consideration, not less than six (6) hours of Arkansas Continuing Legal Education Board approved continuing legal education or professional training primarily involving advocacy in the field of capital trial, capital appellate, or capital post-conviction litigation."

AND

by deleting the words "merits of the" as they appear at the end of line 5 and beginning of line 6 on page 6

AND

by deleting the words "given priority over all other matters and, upon completion," as they appear on lines 20 and 21 of page 6 and substituting therefor the words "completed within sixty (60) days of the conclusion of the post-conviction hearing and"