

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Substitute for Senate Bill No. 1421, Page 1, Section A, Line 3, by inserting  
2 after all of said section and line the following:  
3

4 "547.370. 1. ~~[When a motion is filed as provided in section 547.360 to set aside a~~  
5 ~~sentence of death, the court shall]~~ Whenever the death penalty is imposed in any case, the circuit  
6 court shall, at the time it imposes sentence and judgment, find on the record whether the  
7 [movant] defendant is indigent. If the [movant] defendant is indigent, the court shall, without  
8 delay, cause to be appointed two counsel to represent the [movant] defendant in the preparation  
9 and litigation of the defendant's motion under Missouri supreme court rule 24.035 or 29.15. If  
10 [movant] the defendant seeks to reject the appointment of counsel, the court shall find on the  
11 record, after a hearing, if necessary, whether the [movant] defendant is able to competently  
12 decide whether to accept or reject the appointment and whether the [movant] defendant rejected  
13 the offer with the understanding of its legal consequences. Unless the [movant] defendant is so  
14 competent and understands the legal consequences, [movant] the defendant shall not be  
15 permitted to reject the appointment of counsel. If the defendant is not indigent, the court may  
16 enter an order denying the appointment of counsel.

17 2. All counsel appointed as provided in this section shall be members of The Missouri  
18 Bar or shall be admitted to practice in the particular case as provided in Missouri supreme court  
19 rule 9. At least one of the counsel shall meet the following qualifications:

20 (1) Have attended and successfully completed within two years immediately preceding  
21 the appointment at least twelve hours of training or educational programs on the postconviction  
22 phase of a criminal case and federal and state aspects of cases in which the death penalty is  
23 sought; and

24 (2) Have at least three years of litigation experience in the field of criminal law and three  
25 years of litigation experience in the field of postconviction law; and

26 (3) Have participated as counsel or co-counsel to final judgment in at least five  
27 postconviction motions involving class A felonies in either state or federal trial courts; and

28 (4) Have participated in either state or federal court as counsel or co-counsel to final  
29 judgment in at least:

30 (a) Three felony jury trials; or

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- 1 (b) Five direct criminal appeals in felony cases; and  
2 (5) Have been a member of the Missouri Bar for a period of at least five years.

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4 Upon a showing of good cause, the circuit court may appoint other counsel whose background,  
5 knowledge, or experience would otherwise enable such counsel to properly represent the  
6 defendant in any motion under Missouri supreme court rule 24.035 or 29.15, with due  
7 consideration of the seriousness of the penalty and the unique and complex nature of the  
8 litigation. Counsel shall certify to the state public defender in such form as the defender may  
9 require that counsel meets the qualifications of this section prior to filing counsel's entry of  
10 appearance in the case.

11 3. Counsel appointed to represent the ~~[movant]~~ defendant shall not have represented the  
12 ~~[movant]~~ defendant at trial ~~[or-on]~~ and shall not represent the defendant in the direct appeal  
13 therefrom.

14 4. As to any counsel appointed as provided in this section, the state public defender shall  
15 provide counsel with reasonable compensation and shall provide reasonable and necessary  
16 litigation expenses.

17 5. This section shall apply whenever the death penalty is imposed in any case and to any  
18 motions under Missouri supreme court rule 24.035 or 29.15 filed by a movant challenging a  
19 sentence of death.

20 6. The state shall comply with any additional requirements under 28 U.S.C Sections  
21 2261 and 2265 and 28 CFR Section 26.22 that are not specifically contained in this section.";  
22 and

23  
24 Further amend said bill by amending the title, enacting clause, and intersectional references  
25 accordingly.