

Amendment No. 1 to HB1723

Watson
Signature of Sponsor

AMEND Senate Bill No. 827*

House Bill No. 1723

by deleting SECTION 5 of the bill and substituting instead the following:

SECTION 5. Tennessee Code Annotated, Section 40-30-202, is amended by deleting the section in its entirety and substituting instead the following:

(a) On July 1, 2011 the post-conviction defender oversight commission is created. This act also creates the office of post-conviction defender to provide for the representation of any person convicted and sentenced to death in this state who is unable to secure counsel due to indigence, and that legal proceedings to challenge that conviction and sentence may be commenced in a timely manner and so as to assure the people of this state that the judgments of its courts may be regarded with the finality to which they are entitled in the interests of justice. The operation of the post-conviction defender oversight commission and office of post-conviction defender shall be consistent with professional standards and shall not compromise independent professional judgment or create a professional or institutional conflict of interest, appearance of impropriety, breach of attorney-client confidence or secret or other violation of the Tennessee Rules of Professional Conduct or the Tennessee Code of Judicial Conduct.

(b) The post-conviction defender oversight commission shall be strictly administrative in nature and shall oversee budget, staffing and caseload concerns. In order to avoid possible conflicts, relating to cases assigned to the post-conviction defender's office, no member of the commission shall advise, consult or otherwise directly assist the post-conviction defender or the post-conviction defender's staff in providing legal representation in such cases.

AND FURTHER AMEND by deleting subsection 40-30-203(a) in SECTION 6 of the bill and substituting instead the following:

(a) On July 1, 2011, there is created a post-conviction defender oversight commission. The members of the commission appointed under this section shall have a commitment to the constitutional rights of all individuals. In making these appointments, the appointing authorities shall strive to ensure that the membership of the commission appropriately reflects the racial and geographic diversity of the state. Members of the commission are not required to be attorneys, but any member who is an attorney may not be a current district attorney general or assistant district attorney general, a current public defender or assistant public defender, or a sitting judge. The commission is composed of the following nine (9) members:

- (1) Three (3) members appointed by the governor;
- (2) Three (3) members appointed by the speaker of the senate; and
- (3) Three (3) members appointed by the speaker of the house of representatives.

AND FURTHER AMEND by deleting the language "post-conviction defender's commission" in SECTION 9 of the bill and substituting instead the language "post-conviction defender's oversight commission".

AND FURTHER AMEND by deleting SECTION 10 of the printed bill in its entirety and redesignating subsequent sections accordingly.

AND FURTHER AMEND by deleting SECTION 12 of the printed bill in its entirety and substituting instead the following:

SECTION 12. The current post-conviction defender and any staff shall remain in place and continue to operate at least until the new commission has been appointed and has met. The appointing authorities shall make their appointments by September 1, 2011, at which time the current post-conviction defender will schedule a meeting for the newly appointed commission members.