



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites	
------	------------------	----------------	--------------	-----------------	------------------	--------------	--

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**GOVERNMENT CODE - GOV**

**TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655]** ( Title 8 added by Stats. 1953, Ch. 206. )

**CHAPTER 2.3. California Habeas Corpus Resource Center [68660 - 68666]** ( Heading of Chapter 2.3 amended by Stats. 2006, Ch. 69, Sec. 14. )

**68660.** As used in this chapter, "center" means the California Habeas Corpus Resource Center, and "board" means the board of directors of the center.

(Amended by Stats. 1999, Ch. 853, Sec. 3. Effective January 1, 2000.)

**68660.5.** The purposes of this chapter are to qualify the State of California for the handling of federal habeas corpus petitions under Chapter 154 of Title 28 of the United States Code, to expedite the completion of state habeas corpus proceedings in capital cases, and to provide quality representation in state habeas corpus for inmates sentenced to death. This chapter shall be construed and administered consistently with those purposes.

(Added November 8, 2016, by initiative Proposition 66, Sec. 13.)

**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 pursuant to Section 68662 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 habeas corpus petitions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, subject to the limitations in Section 68661.1, and preparing petitions for executive clemency. Any such 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 courts in recruiting members of the private bar to accept death penalty habeas corpus case appointments.
- (d) To recommend attorneys to the Supreme Court for inclusion in a roster of attorneys qualified as counsel in habeas corpus proceedings in capital cases, provided that the final determination of whether to include an attorney in the roster shall be made by the Supreme Court and not delegated to the center.
- (e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in habeas corpus 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, those services shall be pursuant to contract between appointed counsel and the center.
- (g) To provide legal or other advice to appointed counsel in habeas corpus 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 habeas corpus proceedings in capital cases and to make those briefs available to appointed counsel.
- (i) To evaluate cases and recommend assignment by the court of appropriate attorneys.
- (j) To provide assistance and case progress monitoring as needed.
- (k) To timely review case billings and recommend compensation of members of the private bar to the court.
- (l) The center shall report annually to the people, the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in habeas corpus capital cases, and on the operations of the center. The report shall list

all cases in which the center is providing representation. For each case that has been pending more than one year in any court, the report shall state the reason for the delay and the actions the center is taking to bring the case to completion.

*(Amended November 8, 2016, by initiative Proposition 66, Sec. 14.)*

**68661.1.** (a) The center may represent a person sentenced to death on a federal habeas corpus petition if and only if (1) the center was appointed to represent that person on state habeas corpus, (2) the center is appointed for that purpose by the federal court, and (3) the executive director determines that compensation from the federal court will fully cover the cost of representation. Neither the center nor any other person or entity receiving state funds shall spend state funds to attack in federal court any judgment of a California court in a capital case, other than review in the Supreme Court pursuant to Section 1257 of Title 28 of the United States Code.

(b) The center is not authorized to represent any person in any action other than habeas corpus which constitutes a collateral attack on the judgment or seeks to delay or prevent its execution. The center shall not engage in any other litigation or expend funds in any form of advocacy other than as expressly authorized by this section, Section 68661, and Section 68661.5.

(c) This section shall become inoperative on July 1, 2029, and, as of January 1, 2030, is repealed.

*(Amended by Stats. 2024, Ch. 51, Sec. 6. (AB 170) Effective July 2, 2024. Inoperative July 1, 2029, by its own provisions. Repealed as of January 1, 2030, by its own provisions. See later operative version added by Sec. 7 of Stats. 2024, Ch. 51.)*

**68661.1.** (a) The center may represent a person sentenced to death on a federal habeas corpus petition if and only if (1) the center was appointed to represent that person on state habeas corpus, (2) the center is appointed for that purpose by the federal court, and (3) the executive director determines that compensation from the federal court will fully cover the cost of representation. Neither the center nor any other person or entity receiving state funds shall spend state funds to attack in federal court any judgment of a California court in a capital case, other than review in the Supreme Court pursuant to Section 1257 of Title 28 of the United States Code.

(b) The center is not authorized to represent any person in any action other than habeas corpus which constitutes a collateral attack on the judgment or seeks to delay or prevent its execution. The center shall not engage in any other litigation or expend funds in any form of advocacy other than as expressly authorized by this section or Section 68661.

(c) This section shall become operative July 1, 2029.

*(Repealed (in Sec. 6) and added by Stats. 2024, Ch. 51, Sec. 7. (AB 170) Effective July 2, 2024. Operative July 1, 2029, by its own provisions.)*

**68661.5.** (a) Attorneys employed by the center pursuant to Section 68661 may also represent any person sentenced to life without the possibility of parole in this state who was previously sentenced to death and who is determined by a court of competent jurisdiction to be indigent. Representation of a person sentenced to life without the possibility of parole may be for the purpose of instituting and prosecuting habeas corpus petitions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, subject to the limitations in Section 68661.1, and preparing petitions for executive clemency. Any such appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal.

(b) The center may be appointed to represent a person pursuant to this section for the purpose of enabling the center's attorneys to meet the qualifications for representation of death-sentenced persons pursuant to Rule 8.652 of the California Rules of Court, and to facilitate appointments pursuant to subdivision (a) of Section 68661.

(c) This section shall become inoperative on July 1, 2029, and, as of January 1, 2030, is repealed.

*(Added by Stats. 2024, Ch. 51, Sec. 8. (AB 170) Effective July 2, 2024. Inoperative July 1, 2029, by its own provisions. Repealed as of January 1, 2030, by its own provisions.)*

**68662.** The superior court that imposed the sentence shall offer to appoint counsel to represent a state prisoner subject to a capital sentence for purposes of state postconviction proceedings, and shall enter an order containing one of the following:

(a) The appointment of one or more counsel to represent the prisoner in proceedings pursuant to Section 1509 of the Penal Code upon a finding that the person is indigent and has accepted the offer to appoint counsel or is unable to competently decide whether to accept or reject that offer.

(b) A finding, after a hearing if necessary, that the prisoner rejected the offer to appoint counsel and made that decision with full understanding of the legal consequences of the decision.

(c) The denial to appoint counsel upon a finding that the person is not indigent.

*(Amended November 8, 2016, by initiative Proposition 66, Sec. 16.)*

**68663.** No counsel appointed to represent a state prisoner under capital sentence in state postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly requests continued representation.

*(Added by renumbering Section 68653 (as added by Stats. 1997, Ch. 869, Sec. 3) by Stats. 1998, Ch. 485, Sec. 98. Effective January 1, 1999.)*

**68664.** (a) The center shall be managed by an executive director who shall be responsible for the day-to-day operations of the center.

(b) The executive director shall be chosen by the Supreme Court. The executive director shall serve at the will of the Supreme Court.

(c) The executive director shall ensure that all matters in which the center provides representation are completed as expeditiously as possible consistent with effective representation.

(d) The executive director shall meet the appointment qualifications of the State Public Defender as specified in Section 15400.

(e) The executive director shall receive the salary that shall be specified for the State Public Defender in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. All other attorneys employed by the center shall be compensated at the same level as comparable positions in the Office of the State Public Defender.

*(Amended November 8, 2016, by initiative Proposition 66, Sec. 17.)*

**68665.** (a) The Judicial Council and the Supreme Court shall adopt, by rule of court, binding and mandatory competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings, and they shall reevaluate the standards as needed to ensure that they meet the criteria in subdivision (b).

(b) In establishing and reevaluating the standards, the Judicial Council and the Supreme Court shall consider the qualifications needed to achieve competent representation, the need to avoid unduly restricting the available pool of attorneys so as to provide timely appointment, and the standards needed to qualify for Chapter 154 of Title 28 of the United States Code. Experience requirements shall not be limited to defense experience.

*(Amended November 8, 2016, by initiative Proposition 66, Sec. 18.)*

**68666.** (a) The Supreme Court may compensate counsel representing indigent defendants in automatic appeals arising out of a judgment of death or for state postconviction proceedings in those cases, at a rate of at least one hundred twenty-five dollars (\$125) per allowable hour, as defined by the court's Payment Guidelines for Appointed Counsel Representing Indigent Criminal Appellants. However, nothing in this section is intended to prohibit the hiring of counsel under a flat-fee arrangement.

(b) The Supreme Court may set a guideline limitation on investigative and other expenses allowable for counsel to adequately investigate and present collateral claims of up to fifty thousand dollars (\$50,000) without an order to show cause.

(c) It is the intent of the Legislature that payments to appointed counsel be made within 60 days of submission of a billing.

*(Amended by Stats. 2007, Ch. 738, Sec. 21. Effective January 1, 2008.)*