

HOUSE BILL NO. 2048

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROSS (Sponsor) AND JONES (110) (Co-sponsor).

6302H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 546.680, RSMo, and to enact in lieu thereof two new sections relating to the death penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 546.680, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 546.680 and 547.380, to read as follows:

- 546.680. **1. Except as otherwise provided under subsection 2 of this section**, when judgment of death is rendered by any court of competent jurisdiction, a warrant signed by the judge and attested by the clerk under the seal of the court must be drawn and delivered to the sheriff. It must state the conviction and judgment and appoint a day on which the judgment must be executed, which must not be less than thirty nor more than sixty days from the date of judgment, and must direct the sheriff to deliver the defendant, at a time specified in said order, not more than ten days from the date of judgment, to the chief administrative officer of a correctional facility of the department of corrections, for execution.
- 2. In cases in which a defendant kidnapped a victim before causing the victim's death, if the defendant has completed his or her direct appeal and postconviction proceeding in state court and habeas corpus proceeding and appeal in federal court, unless the defendant's conviction or sentence has been invalidated or remanded as a result of such proceeding, or if the defendant has allowed the time permitted for filing a habeas corpus petition in federal court to expire, the supreme court shall issue a warrant of execution directing the chief administrative officer of the correctional facility to execute the sentence within ten days from the date of the warrant.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2 547.380. 1. If a notice of appeal is filed in a criminal case in which a sentence of
3 death has been imposed and the defendant kidnapped the victim before causing the
4 victim's death, the rules relating to appellate practice shall govern except as otherwise
5 provided by this section.

6 2. The following procedures shall apply to an appeal in a criminal case in which a
7 sentence of death has been imposed and the defendant kidnapped the victim before causing
8 the victim's death:

9 (1) Extensions of time shall not be granted except in exceptional circumstances for
10 the filing of a record on appeal or primary briefs. An extension for filing a primary brief
11 shall be no more than ninety days. No party shall be granted more than two extensions
12 except upon a showing of unique and extraordinary circumstances and no extension shall
13 exceed thirty days. No request for additional time that will cause the brief filing date to
14 extend beyond two hundred seventy days from the initial filing due date shall be granted
15 without a hearing before the full supreme court in which counsel shall explain the unique
16 and extraordinary circumstances justifying additional time to the court's satisfaction.
17 Extensions of time to file a reply brief and exceptions to limitations on the length of briefs
18 shall not be granted;

19 (2) The appeal shall be advanced on the court docket and take precedence over all
20 other appeals before the court. The fact that an attorney is engaged in drafting a brief for
21 an appeal in a criminal case in which a sentence of death has been imposed and the
22 defendant kidnapped the victim before causing the victim's death shall be considered by
23 any appellate court as an exceptional circumstance warranting extensions of time to file
24 briefs or other documents in any other case in which counsel is also engaged as lead
25 counsel, upon the request of counsel;

26 (3) Oral arguments shall be heard by the supreme court no later than six months
27 after the filing of the final reply brief of the appellant and the supreme court shall issue a
28 written decision no later than six months after oral argument; and

29 (4) Whether briefed or not, plain errors affecting substantial rights may be
30 considered in the discretion of the court if the court finds that manifest injustice or
31 miscarriage of justice has resulted therefrom. If the court determines that it will consider
32 an error that has not been briefed, the court shall notify the parties of the particular issue
33 no later than sixty days prior to the scheduled oral argument, and shall allow the parties
34 to submit supplemental briefs on the matter prior to oral argument. Such supplemental
35 briefs shall be limited to no more than twenty pages. The court shall not consider any
36 errors that are not identified and brought to the parties' attention prior to sixty days before
oral argument.

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