

HB 2048 -- DEATH PENALTY

SPONSOR: Ross

This bill specifies that in cases in which a defendant kidnapped a victim before causing his or her death, if the defendant has completed his or her direct appeal, post-conviction proceeding in state court, and habeas corpus proceeding and appeal in federal court, the supreme court must issue a warrant of execution directing the chief administrative officer of the correctional facility to execute the sentence within 10 days from the date of the warrant unless the defendant's conviction or sentence has been invalidated or remanded as a result of the proceeding, or if the defendant has allowed the time permitted for filing a habeas corpus petition in federal court to expire.

When a notice of appeal is filed in a criminal case in which a sentence of death has been imposed and the defendant kidnapped the victim before causing the victim's death, extensions of time must not be granted except in exceptional circumstances for the filing of a record on appeal or primary briefs. An extension for filing a primary brief must be no more than 90 days. The bill prohibits any party from being granted more than two extensions except upon a showing of unique and extraordinary circumstances and no extension can exceed 30 days.

A request for additional time that will cause the brief filing date to extend beyond 270 days from the initial filing due date will not be granted without a hearing before the full supreme court in which counsel must explain the unique and extraordinary circumstances justifying additional time to the court's satisfaction. Extensions of time to file a reply brief and exceptions to limitations on the length of briefs must not be granted. The appeal must be advanced on the court docket and take precedence over all other appeals before the court. The fact that an attorney is engaged in drafting a brief for an appeal in a criminal case in which a sentence of death has been imposed and the defendant kidnapped the victim before causing the victim's death must be considered by any appellate court as an exceptional circumstance warranting extensions of time to file briefs or other documents in any other case in which counsel is also engaged as lead counsel, upon the request of counsel.

Oral arguments must be heard by the supreme court no later than six months after the filing of the final reply brief of the appellant and the supreme court must issue a written decision no later than six months after oral argument. Whether briefed or not, plain errors affecting substantial rights may be considered in the discretion of the court if the court finds that manifest injustice

or miscarriage of justice occurred. If the court determines that it will consider an error that has not been briefed, the court must notify the parties of the issue no later than 60 days prior to the scheduled oral argument, and must allow the parties to submit supplemental briefs on the matter prior to oral argument. The supplemental briefs must be limited to no more than 20 pages. The court must not consider any errors that are not identified and brought to the parties' attention prior to 60 days before oral argument.