

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 439

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1  
2 RELATING TO THE STATE APPELLATE PUBLIC DEFENDER; AMENDING SECTION 19-870,  
3 IDAHO CODE, TO PROVIDE THAT THE STATE APPELLATE PUBLIC DEFENDER SHALL  
4 PROVIDE REPRESENTATION FOR CERTAIN INTERLOCUTORY APPEALS AND TO REVISE  
5 PROVISIONS RELATING TO POST-CONVICTION RELIEF AND HABEAS CORPUS PRO-  
6 CEEDINGS.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 19-870, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 19-870. POWERS AND DUTIES. (1) Subject to the provisions of subsection  
11 (2) of this section, the state appellate public defender, upon appointment  
12 by the court, shall provide representation for indigent defendants in felony  
13 criminal actions in the following cases:

14 (a) Appeals from convictions in district court, where the appellant was  
15 convicted on or after September 1, 1998;

16 (b) Interlocutory appeals from district court, where the interlocutory  
17 appeal was filed on or after September 1, 1998;

18 (c) Appeals from the district court in post-conviction relief pro-  
19 ceedings brought pursuant to the uniform post-conviction procedure  
20 act, chapter 49, title 19, Idaho Code, where the grant or denial of the  
21 post-conviction relief occurred on or after September 1, 1998;

22 (ed) Appeals from the district court in habeas corpus proceedings  
23 brought pursuant to chapter 42, title 19, Idaho Code, where the petition  
24 was granted or denied on or after September 1, 1998;

25 (~~e~~) Post-conviction relief proceedings in district court in capital  
26 cases where the appellant was sentenced on or after September 1, 1998,  
27 or where the court has appointed the state appellate public defender  
28 or the state appellate public defender has accepted the request by the  
29 court for representation in the case and such event occurred on or after  
30 July 1, 1998, but before March 1, 1999.

31 (2) The services of the state appellate public defender shall be avail-  
32 able only to those counties participating in the capital crimes defense fund  
33 established pursuant to section 19-863A, Idaho Code.

34 (3) The state appellate public defender may employ deputy state appel-  
35 late public defenders and other employees necessary to carry out the respon-  
36 sibilities of the office. The state appellate public defender, in his dis-  
37 cretion, may contract with private attorneys to provide representation on a  
38 case-by-case basis when such contracts would conserve budgetary resources.

39 (a) A deputy state appellate public defender must be licensed to prac-  
40 tice law in the state of Idaho and possess any other qualifications re-  
41 quired by the state appellate public defender.

1 (b) The state appellate public defender shall fix the compensation of  
2 all employees of the office and they shall serve at his pleasure.

3 (c) The state appellate public defender, deputy state appellate pub-  
4 lic defenders and all employees of the office of the state appellate  
5 public defender shall be nonclassified employees, pursuant to section  
6 67-5303, Idaho Code.

7 (4) The state appellate public defender shall have any and all other  
8 powers and duties necessary to carry out the purposes of this act, including  
9 the authority to promulgate rules in accordance with the provisions of chap-  
10 ter 52, title 67, Idaho Code.