

78B-9-109 Appointment of pro bono counsel.

- (1) If any portion of the petition is not summarily dismissed, the court may, upon the request of an indigent petitioner, appoint counsel on a pro bono basis to represent the petitioner in the post-conviction court or on post-conviction appeal. Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.
- (2) In determining whether to appoint counsel, the court shall consider the following factors:
 - (a) whether the petition or the appeal contains factual allegations that will require an evidentiary hearing; and
 - (b) whether the petition involves complicated issues of law or fact that require the assistance of counsel for proper adjudication.
- (3) An allegation that counsel appointed under this section was ineffective cannot be the basis for relief in any subsequent post-conviction petition.

Renumbered and Amended by Chapter 3, 2008 General Session

Amended by Chapter 288, 2008 General Session