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Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to postconviction capital case proceedings; providing a short title; repealing s. 27.701(2), F.S., relating to the pilot project for capital representation; amending s. 27.702, F.S.; providing that the capital collateral regional counsel and the attorneys appointed pursuant to law shall file only those postconviction or collateral actions authorized by statute; amending s. 27.703, F.S.; providing that if the collateral counsel believes continued representation of a person creates a conflict of interest, the court shall hold a hearing to determine if a conflict actually exists; amending s. 27.708, F.S.; directing capital collateral counsel to comply with statutory requirements rather than rules of court; amending s. 27.7081, F.S., relating to public records; defining terms; describing access to public records; proscribing procedures to obtain relevant records; amending s. 27.7091, F.S.; removing a request to the Supreme Court to adopt by rule the provisions that limit the time for postconviction proceedings in capital cases; amending s. 27.711, F.S.; revising provisions to conform to changes made by the act; amending s. 922.095, F.S.; providing that any postconviction claim not pursued within the statutory time limits is barred; reenacting s. 922.108, F.S., relating to sentencing orders in



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28 capital cases; amending s. 924.055, F.S.; providing  
29 legislative intent; directing courts to expedite  
30 postconviction proceedings; amending s. 924.056, F.S.;  
31 providing that the section governs all postconviction  
32 proceedings in every capital case in which the  
33 conviction and sentence of death have been affirmed on  
34 direct appeal on or after a specified date; providing  
35 for the appointment of postconviction counsel;  
36 amending s.924.057, F.S.; providing that the section  
37 governs all postconviction proceeding to capital  
38 postconviction actions brought before a specified  
39 date; making technical changes; amending s. 924.058,  
40 F.S.; providing that the section regulates procedures  
41 in actions involving successive postconviction motions  
42 in all postconviction proceedings in capital cases  
43 affirmed on or after a specified date; creating s.  
44 924.0581, F.S.; providing that the section governs  
45 capital postconviction appeals to the Florida Supreme  
46 Court in every capital case in which the conviction  
47 and sentence of death have been affirmed on direct  
48 appeal on or after a specified date; creating s.  
49 924.0585, F.S.; requiring the Florida Supreme Court to  
50 annually report to the Speaker of the Florida House of  
51 Representatives and the President of the Florida  
52 Senate concerning the status of each capital case in  
53 which a postconviction action has been filed that has  
54 been pending for more than 3 years; amending s.  
55 924.059, F.S.; providing procedures to resolve  
56 conflicts of interest in capital postconviction



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57 proceedings; creating s. 924.0591, F.S.; providing  
58 that a death-sentenced inmate pursuing collateral  
59 relief who is found by the court to be mentally  
60 incompetent shall not be proceeded against; providing  
61 procedures for competency examinations and hearings;  
62 creating s. 924.0592, F.S.; providing that the section  
63 governs all postconviction proceedings in every  
64 capital case in which the conviction and sentence of  
65 death have been affirmed on direct appeal on or after  
66 a specified date and in which a death warrant has been  
67 issued; creating s. 924.0593, F.S.; governing  
68 procedures relating to claims of insanity at the time  
69 of execution; creating s. 924.0594, F.S.; providing  
70 procedures that apply if an inmate seeks both to  
71 dismiss a pending postconviction proceeding and to  
72 discharge collateral counsel; providing for  
73 severability; providing for a contingent effective  
74 date.

75  
76 WHEREAS, it is in the best interest of the administration  
77 of justice that a sentence of death ordered by a court of this  
78 state be carried out in a manner that is fair, just, and humane  
79 and that conforms to constitutional requirements, and

80 WHEREAS, in order for capital punishment to be fair, just,  
81 and humane for both the family of victims and for offenders,  
82 there must be a prompt and efficient administration of justice  
83 following any sentence of death ordered by the courts of this  
84 state, and

85 WHEREAS, in order to ensure the fair, just, and humane



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86 administration of capital punishment, it is necessary for the  
87 Legislature to comprehensively address the processes by which an  
88 offender sentenced to death may pursue postconviction and  
89 collateral review of the judgment and the sentence of death, and

90 WHEREAS, the Death Penalty Reform Act of 2000, chapter  
91 2000-3, Laws of Florida, was designed to accomplish these  
92 objectives and was passed by the Legislature and approved by the  
93 Governor of Florida in January of 2000, and

94 WHEREAS, the Death Penalty Reform Act of 2000, chapter  
95 2000-3, Laws of Florida, was declared unconstitutional by the  
96 Florida Supreme Court three months after becoming a law in *Allen*  
97 *v. Butterworth*, 756 So.2d 52 (Fla. 2000), as being an  
98 encroachment on the court's "exclusive power to 'adopt rules for  
99 the practice and procedure in all courts,'" and

100 WHEREAS, the Constitution of the State of Florida has been  
101 amended to require postconviction and collateral review of  
102 capital cases resulting in a sentence of death to be governed  
103 by, and to the extent provided by, general law, and

104 WHEREAS, provisions of the Death Penalty Reform Act of 2000  
105 which were held unconstitutional may now be reenacted, while  
106 other provisions can be modified, and new provisions added to  
107 ensure a prompt and efficient administration of justice  
108 following any sentence of death, NOW, THEREFORE,  
109 Be It Enacted by the Legislature of the State of Florida:

110  
111 Section 1. This act may be cited as the "Timely Justice  
112 Act."

113 Section 2. Effective July 1, 2013, subsection (2) of  
114 section 27.701, Florida Statutes, is repealed.



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115 Section 3. Subsection (1) of section 27.702, Florida  
116 Statutes, is amended to read:

117 27.702 Duties of the capital collateral regional counsel;  
118 reports.-

119 (1) The capital collateral regional counsel shall represent  
120 each person convicted and sentenced to death in this state for  
121 the sole purpose of instituting and prosecuting collateral  
122 actions challenging the legality of the judgment and sentence  
123 imposed against such person in the state courts, federal courts  
124 in this state, the United States Court of Appeals for the  
125 Eleventh Circuit, and the United States Supreme Court. ~~The~~  
126 ~~capital collateral regional counsel and the attorneys appointed~~  
127 ~~pursuant to s. 27.710 shall file only those postconviction or~~  
128 ~~collateral actions authorized by statute.~~ The three capital  
129 collateral regional counsel's offices shall function  
130 independently and be separate budget entities, and the regional  
131 counsel shall be the office heads for all purposes. The Justice  
132 Administrative Commission shall provide administrative support  
133 and service to the three offices to the extent requested by the  
134 regional counsel. The three regional offices shall not be  
135 subject to control, supervision, or direction by the Justice  
136 Administrative Commission in any manner, including, but not  
137 limited to, personnel, purchasing, transactions involving real  
138 or personal property, and budgetary matters.

139 Section 4. Effective July 1, 2013, paragraph (b) of  
140 subsection (4) of section 27.702, Florida Statutes, is amended  
141 to read:

142 27.702 Duties of the capital collateral regional counsel;  
143 reports.-



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144 (4)

145 (b) Each capital collateral regional counsel ~~and each~~  
146 ~~attorney participating in the pilot program in the northern~~  
147 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report  
148 to the President of the Senate and the Speaker of the House of  
149 Representatives which details the number of hours worked by  
150 investigators and legal counsel per case and the amounts per  
151 case expended during the preceding quarter in investigating and  
152 litigating capital collateral cases.

153 Section 5. Section 27.703, Florida Statutes, is reenacted  
154 to read:

155 27.703 Conflict of interest and substitute counsel.—

156 (1) The capital collateral regional counsel shall not  
157 accept an appointment or take any other action that will create  
158 a conflict of interest. If, at any time during the  
159 representation of a person, the capital collateral regional  
160 counsel alleges ~~determines~~ that the continued representation of  
161 that person creates a conflict of interest, the sentencing court  
162 shall hold a hearing in accordance with s. 924.059 to determine  
163 if an actual conflict exists. If the court determines that an  
164 actual conflict exists and that such conflict will adversely  
165 affect the capital collateral regional counsel's performance,  
166 the court shall, ~~upon application by the regional counsel,~~  
167 designate another regional counsel. If the replacement regional  
168 counsel alleges that a conflict of interest exists, the  
169 sentencing court shall hold a hearing in accordance with s.  
170 924.059 to determine if an actual conflict exists. If the court  
171 determines that an actual conflict exists and that such conflict  
172 will adversely affect the replacement regional counsel's



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173 performance, the court shall and, only if a conflict exists with  
174 the other two counsel, appoint one or more members of The  
175 Florida Bar to represent the person one or more of such persons.

176 (2) Appointed counsel shall be paid from funds appropriated  
177 to the Chief Financial Officer. The hourly rate may not exceed  
178 \$100. However, all appointments of private counsel under this  
179 section shall be in accordance with ss. 27.710 and 27.711.

180 (3) Prior to employment, counsel appointed pursuant to this  
181 section must have participated in at least five felony jury  
182 trials, five felony appeals, or five capital postconviction  
183 evidentiary hearings, or any combination of at least five of  
184 such proceedings.

185 Section 6. Section 27.708, Florida Statutes, is amended to  
186 read:

187 27.708 Access to inmates ~~prisoners; compliance with the~~  
188 ~~Florida Rules of Criminal Procedure;~~ records requests.-

189 (1) Each capital collateral regional counsel and his or her  
190 assistants may inquire of all persons sentenced to death who are  
191 incarcerated and tender them advice and counsel at any  
192 reasonable time, but this section does not apply with respect to  
193 persons who are represented by other counsel.

194 (2) The capital collateral regional counsel and contracted  
195 private counsel must timely comply with all statutory  
196 requirements ~~provisions of the Florida Rules of Criminal~~  
197 ~~Procedure~~ governing collateral review of capital cases.

198 (3) Except as provided in s. 27.7081, the capital  
199 collateral regional counsel or contracted private counsel shall  
200 not make any public records request on behalf of his or her  
201 client.



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202 Section 7. Section 27.7081, Florida Statutes, is amended to  
203 read:

204 (Substantial rewording of section.

205 See s. 27.7081, F.S., for present text.)

206 27.7081 Capital postconviction public records production.-

207 (1) DEFINITIONS.-As used in this section, the term:

208 (a) "Agency" has the same meaning as provided in s.  
209 119.011.

210 (b) "Collateral counsel" means a capital collateral  
211 regional counsel from one of the three regions in Florida, a  
212 private attorney who has been appointed to represent a capital  
213 defendant for postconviction litigation, or a private attorney  
214 who has been hired by the capital defendant or who has agreed to  
215 work pro bono for a capital defendant for postconviction  
216 litigation.

217 (c) "Public records" has the same meaning as provided in s.  
218 119.011.

219 (d) "Trial court" means:

220 1. The judge who entered the judgment and imposed the  
221 sentence of death; or

222 2. If a motion for postconviction relief in a capital case  
223 has been filed and a different judge has already been assigned  
224 to that motion, the judge who is assigned to rule on that  
225 motion.

226 (2) APPLICABILITY AND SCOPE.-This section only applies to  
227 the production of public records for capital postconviction  
228 defendants and does not change or alter the time periods  
229 specified in s. 924.056 or s. 924.058. Furthermore, this section  
230 does not affect, expand, or limit the production of public



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231 records for any purposes other than use in a proceeding held  
232 pursuant to s. 924.056 or s. 924.058. This section shall not be  
233 a basis for renewing public records requests that have been  
234 initiated previously or for relitigating issues pertaining to  
235 production of public records upon which a court has ruled prior  
236 to July 1, 2015. Public records requests made in postconviction  
237 proceedings in capital cases in which the conviction and  
238 sentence of death have been affirmed on direct appeal before  
239 July 1, 2015, shall be governed by the rules and laws in effect  
240 immediately prior to the effective date of this act.

241 (3) RECORDS REPOSITORY.—The Secretary of State shall  
242 establish and maintain a records repository for the purpose of  
243 archiving capital postconviction public records as provided for  
244 in this section.

245 (4) FILING AND SERVICE.—

246 (a) The original of all notices, requests, or objections  
247 filed under this section must be filed with the clerk of the  
248 trial court. Copies must be served on the trial court, the  
249 Attorney General, the state attorney, collateral counsel, and  
250 any affected person or agency, unless otherwise required by this  
251 section.

252 (b) Service shall be made pursuant to Florida Rule of  
253 Criminal Procedure 3.030.

254 (c) In all instances requiring written notification or  
255 request, the party who has the obligation of providing a  
256 notification or request shall provide proof of receipt.

257 (d) Persons and agencies receiving postconviction public  
258 records notifications or requests pursuant to this section are  
259 not required to furnish records filed in a trial court prior to



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260 the receipt of the notice.

261 (5) ACTION UPON ISSUANCE OF THE MANDATE ON DIRECT APPEAL.-

262 (a) Within 15 days after receiving written notification of  
263 the Supreme Court of Florida's mandate affirming the sentence of  
264 death, the Attorney General shall file with the trial court a  
265 written notice of the mandate and serve a copy of it upon the  
266 state attorney who prosecuted the case, the Department of  
267 Corrections, and the defendant's trial counsel. The notice to  
268 the state attorney shall direct the state attorney to submit  
269 public records to the records repository within 90 days after  
270 receipt of written notification and to notify each law  
271 enforcement agency involved in the investigation of the capital  
272 offense to submit public records to the records repository  
273 within 90 days after receipt of written notification. The notice  
274 to the Department of Corrections shall direct the department to  
275 submit public records to the records repository within 90 days  
276 after receipt of written notification.

277 (b) Within 90 days after receiving written notification of  
278 issuance of the Supreme Court of Florida's mandate affirming a  
279 death sentence, the state attorney shall provide written  
280 notification to the Attorney General of the name and address of  
281 any additional person or agency that has public records  
282 pertinent to the case.

283 (c) Within 90 days after receiving written notification of  
284 issuance of the Supreme Court of Florida's mandate affirming a  
285 death sentence, the defendant's trial counsel shall provide  
286 written notification to the Attorney General of the name and  
287 address of any person or agency with information pertinent to  
288 the case which has not previously been provided to collateral



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289 counsel.

290 (d) Within 15 days after receiving written notification of  
291 any additional person or agency pursuant to paragraphs (b) or  
292 (c), the Attorney General shall notify all persons or agencies  
293 identified pursuant to paragraphs (b) or (c) that these persons  
294 or agencies are required by law to copy, index, and deliver to  
295 the records repository all public records pertaining to the case  
296 that are in their possession. The person or agency shall bear  
297 the costs related to copying, indexing, and delivering the  
298 records.

299 (6) ACTION UPON RECEIPT OF NOTICE OF MANDATE.—

300 (a) Within 15 days after receipt of a written notice of the  
301 mandate from the Attorney General, the state attorney shall  
302 provide written notification to each law enforcement agency  
303 involved in the specific case to submit public records to the  
304 records repository within 90 days after receipt of written  
305 notification. A copy of the notice shall be served upon the  
306 defendant's trial counsel.

307 (b) Within 90 days after receipt of a written notice of the  
308 mandate from the Attorney General, the state attorney shall  
309 copy, index, and deliver to the records repository all public  
310 records that were produced in the state attorney's investigation  
311 or prosecution of the case. The state attorney shall bear the  
312 costs. The state attorney shall also provide written  
313 notification to the Attorney General of compliance with this  
314 section, including certifying that, to the best of the state  
315 attorney's knowledge or belief, all public records in the state  
316 attorney's possession have been copied, indexed, and delivered  
317 to the records repository as required by this section.



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318       (c) Within 90 days after receipt of written notification of  
319 the mandate from the Attorney General, the Department of  
320 Corrections shall copy, index, and deliver to the records  
321 repository all public records determined by the department to be  
322 relevant to the subject matter of a proceeding under s. 924.056  
323 or s. 924.058, unless such copying, indexing, and delivering  
324 would be unduly burdensome. The department shall bear the costs.  
325 The secretary of the department shall provide written  
326 notification to the Attorney General of compliance with this  
327 paragraph certifying that, to the best of the secretary of the  
328 department's knowledge or belief, all such public records in the  
329 possession of the secretary of the department have been copied,  
330 indexed, and delivered to the records repository.

331       (d) Within 90 days after receipt of written notification of  
332 the mandate from the state attorney, a law enforcement agency  
333 shall copy, index, and deliver to the records repository all  
334 public records which were produced in the investigation or  
335 prosecution of the case. Each agency shall bear the costs. The  
336 chief law enforcement officer of each law enforcement agency  
337 shall provide written notification to the Attorney General of  
338 compliance with this paragraph including certifying that, to the  
339 best of the chief law enforcement officer's knowledge or belief,  
340 all such public records in possession of the agency or in  
341 possession of any employee of the agency, have been copied,  
342 indexed, and delivered to the records repository.

343       (e) Within 90 days after receipt of written notification of  
344 the mandate from the Attorney General, each additional person or  
345 agency identified pursuant to paragraphs (5)(b) or (5)(c) shall  
346 copy, index, and deliver to the records repository all public



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347 records which were produced during the prosecution of the case.  
348 The person or agency shall bear the costs. The person or agency  
349 shall provide written notification to the Attorney General of  
350 compliance with this subdivision and shall certify, to the best  
351 of the person or agency's knowledge and belief, all such public  
352 records in the possession of the person or agency have been  
353 copied, indexed, and delivered to the records repository.

354 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.—

355 (a) Any public records delivered to the records repository  
356 pursuant to this section that are confidential or exempt from  
357 the requirements of s. 119.07(1) or Art. I, Section 24(a),  
358 Florida Constitution, must be separately contained, without  
359 being redacted, and sealed. The outside of the container must  
360 clearly identify that the public record is confidential or  
361 exempt and that the seal may not be broken without an order of  
362 the trial court. The outside of the container must identify the  
363 nature of the public records and the legal basis for the  
364 exemption.

365 (b) Upon the entry of an appropriate court order, sealed  
366 containers subject to an inspection by the trial court shall be  
367 shipped to the clerk of court. The containers may be opened only  
368 for inspection by the trial court in camera. The moving party  
369 shall bear all costs associated with the transportation and  
370 inspection of such records by the trial court. The trial court  
371 shall perform the unsealing and inspection without ex parte  
372 communications and in accord with procedures for reviewing  
373 sealed documents.

374 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.—

375 (a) Within 240 days after collateral counsel is appointed,



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376 retained, or appears pro bono, such counsel shall send a written  
377 demand for additional public records to each person or agency  
378 submitting public records or identified as having information  
379 pertinent to the case under subsection (5).

380 (b) Within 90 days of receipt of the written demand, each  
381 person or agency notified under this subsection shall deliver to  
382 the records repository any additional public records in the  
383 possession of the person or agency that pertain to the case and  
384 shall certify to the best of the person or agency's knowledge  
385 and belief that all additional public records have been  
386 delivered to the records repository or, if no additional public  
387 records are found, shall recertify that the public records  
388 previously delivered are complete.

389 (c) Within 60 days of receipt of the written demand, any  
390 person or agency may file with the trial court an objection to  
391 the written demand described in paragraph (a). The trial court  
392 shall hold a hearing and issue a ruling within 30 days after the  
393 filing of any objection, ordering a person or agency to produce  
394 additional public records if the court determines each of the  
395 following exists:

396 1. Collateral counsel has made a timely and diligent search  
397 as provided in this section.

398 2. Collateral counsel's written demand identifies, with  
399 specificity, those additional public records that are not at the  
400 records repository.

401 3. The additional public records sought are relevant to the  
402 subject matter of a postconviction proceeding under s. 924.056  
403 or s. 924.058, or appear reasonably calculated to lead to the  
404 discovery of admissible evidence.



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405 4. The additional public records request is not overly  
406 broad or unduly burdensome.

407 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL  
408 RECORDS.—

409 (a) In order to obtain public records in addition to those  
410 provided under subsections (6), (7), and (8), collateral counsel  
411 shall file an affidavit in the trial court which:

412 1. Attests that collateral counsel has made a timely and  
413 diligent search of the records repository; and

414 2. Identifies with specificity those public records not at  
415 the records repository; and

416 3. Establishes that the additional public records are  
417 either relevant to the subject matter of the postconviction  
418 proceeding or are reasonably calculated to lead to the discovery  
419 of admissible evidence; and

420 4. Shall be served in accord with subsection (4).

421 (b) Within 30 days after the affidavit of collateral  
422 counsel is filed, the trial court shall order a person or agency  
423 to produce additional public records only upon finding each of  
424 the following:

425 1. Collateral counsel has made a timely and diligent search  
426 of the records repository;

427 2. Collateral counsel's affidavit identifies with  
428 specificity those additional public records that are not at the  
429 records repository;

430 3. The additional public records sought are either relevant  
431 to the subject matter of a capital postconviction proceeding or  
432 appear reasonably calculated to lead to the discovery of  
433 admissible evidence; and



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434 4. The additional records request is not overly broad or  
435 unduly burdensome.

436 (10) Collateral counsel shall provide the personnel,  
437 supplies, and any necessary equipment to copy records held at  
438 the records repository.

439 (11) AUTHORITY OF THE COURT.—In proceedings under this  
440 section the trial court may:

441 (a) Compel or deny disclosure of records;

442 (b) Conduct an in-camera inspection;

443 (c) Extend the times in this section upon a showing of good  
444 cause;

445 (d) Impose sanctions upon any party, person, or agency  
446 affected by this section including initiating contempt  
447 proceedings, taxing expenses, extending time, ordering facts to  
448 be established, and granting other relief; and

449 (e) Resolve any dispute arising under this section unless  
450 jurisdiction is in an appellate court.

451 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION  
452 ISSUES.—

453 (a) Unless otherwise limited, the scope of production under  
454 any part of this section shall be that the public records sought  
455 are not privileged or immune from production and are either  
456 relevant to the subject matter of a postconviction proceeding  
457 under s. 924.056 or s. 924.058 or are reasonably calculated to  
458 lead to the discovery of admissible evidence.

459 (b) Any objections or motions to compel production of  
460 public records pursuant to this section shall be filed within 30  
461 days after the end of the production time period provided by  
462 this section. Counsel for the party objecting or moving to



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463 compel shall file a copy of the objection or motion directly  
464 with the trial court. The trial court shall hold a hearing on  
465 the objection or motion on an expedited basis.

466 (c) The trial court may order mediation for any controversy  
467 as to public records production pursuant to this section in  
468 accord with Florida Rules of Civil Procedure 1.700, 1.710,  
469 1.720, 1.730, or the trial court may refer any such controversy  
470 to a magistrate in accord with Florida Rule of Civil Procedure  
471 1.490.

472 (13) DESTRUCTION OF RECORDS REPOSITORY RECORDS.—Sixty days  
473 after a capital sentence is carried out, after a defendant is  
474 released from incarceration following the granting of a pardon  
475 or reversal of the sentence, or after a defendant has been  
476 resentenced to a term of years, the Attorney General shall  
477 provide written notification of this occurrence to the secretary  
478 of State. After the expiration of the 60 days, the Secretary of  
479 State may then destroy the copies of the records held by the  
480 records repository that pertain to that case, unless an  
481 objection to the destruction is filed in the trial court and  
482 served upon the Secretary of State. If no objection has been  
483 served within the 60-day period, the records may then be  
484 destroyed. If an objection is served, the records shall not be  
485 destroyed until a final disposition of the objection.

486 Section 8. Effective July 1, 2013, section 27.7091, Florida  
487 Statutes, is amended to read:

488 27.7091 Legislative recommendations to Supreme Court;  
489 postconviction proceedings; pro bono service credit.—In the  
490 interest of promoting justice and integrity with respect to  
491 capital collateral representation, the Legislature recommends



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492 that the Supreme Court:

493 ~~(1) Adopt by rule the provisions of s. 924.055, which limit~~  
494 ~~the time for postconviction proceedings in capital cases.~~

495 ~~(2) award pro bono service credit for time spent by an~~  
496 ~~attorney in providing legal representation to an individual~~  
497 ~~sentenced to death in this state, regardless of whether the~~  
498 ~~attorney receives compensation for such representation.~~

499 Section 9. Effective July 1, 2013, subsection (3) of  
500 section 27.711, Florida Statutes, is amended to read:

501 27.711 Terms and conditions of appointment of attorneys as  
502 counsel in postconviction capital collateral proceedings.-

503 (3) An attorney appointed to represent a capital defendant  
504 is entitled to payment of the fees set forth in this section  
505 only upon full performance by the attorney of the duties  
506 specified in this section and approval of payment by the trial  
507 court, and the submission of a payment request by the attorney,  
508 subject to the availability of sufficient funding specifically  
509 appropriated for this purpose. ~~An attorney may not be~~  
510 ~~compensated under this section for work performed by the~~  
511 ~~attorney before July 1, 2003, while employed by the northern~~  
512 ~~regional office of the capital collateral counsel.~~ The Chief  
513 Financial Officer shall notify the executive director and the  
514 court if it appears that sufficient funding has not been  
515 specifically appropriated for this purpose to pay any fees which  
516 may be incurred. The attorney shall maintain appropriate  
517 documentation, including a current and detailed hourly  
518 accounting of time spent representing the capital defendant. The  
519 fee and payment schedule in this section is the exclusive means  
520 of compensating a court-appointed attorney who represents a



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521 capital defendant. When appropriate, a court-appointed attorney  
522 must seek further compensation from the Federal Government, as  
523 provided in 18 U.S.C. s. 3006A or other federal law, in habeas  
524 corpus litigation in the federal courts.

525 Section 10. Paragraph (b) of subsection (4) of section  
526 27.711, Florida Statutes, is amended to read:

527 27.711 Terms and conditions of appointment of attorneys as  
528 counsel in postconviction capital collateral proceedings.—

529 (4) Upon approval by the trial court, an attorney appointed  
530 to represent a capital defendant under s. 27.710 is entitled to  
531 payment of the following fees by the Chief Financial Officer:

532 (b) The attorney is entitled to \$100 per hour, up to a  
533 maximum of \$20,000, after timely filing in the trial court the  
534 capital defendant's complete original motion for postconviction  
535 relief ~~under the Florida Rules of Criminal Procedure~~. The motion  
536 must raise all issues to be addressed by the trial court.

537 However, an attorney is entitled to fees under this paragraph if  
538 the court schedules a hearing on a matter that makes the filing  
539 of the original motion for postconviction relief unnecessary or  
540 if the court otherwise disposes of the case.

541  
542 The hours billed by a contracting attorney under this subsection  
543 may include time devoted to representation of the defendant by  
544 another attorney who is qualified under s. 27.710 and who has  
545 been designated by the contracting attorney to assist him or  
546 her.

547 Section 11. Section 922.095, Florida Statutes, is amended  
548 to read:

549 922.095 Grounds for death warrant; limitations of actions.—



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550 A person who is convicted and sentenced to death must pursue all  
551 possible collateral remedies within the time limits provided by  
552 statute. Failure to seek relief within the statutory time limits  
553 constitutes grounds for issuance of a death warrant under s.  
554 922.052 or s. 922.14. Any postconviction claim not pursued  
555 within the statutory time limits is barred. No postconviction  
556 claim filed after the time required by law shall be grounds for  
557 a judicial stay of any warrant.

558 Section 12. Section 922.108, Florida Statutes, is reenacted  
559 to read:

560 922.108 Sentencing orders in capital cases.—The sentence of  
561 death must not specify any particular method of execution. The  
562 wording or form of the sentencing order shall not be grounds for  
563 reversal of any sentence.

564 Section 13. Section 924.055, Florida Statutes, is amended  
565 to read:

566 924.055 Postconviction review in capital cases; legislative  
567 findings and intent.—

568 (1) It is the intent of the Legislature to reduce delays in  
569 capital cases and to ensure that all ~~appeals and~~ postconviction  
570 actions in capital cases are resolved as quickly as possible  
571 ~~within 5 years~~ after the date a sentence of death is imposed in  
572 the circuit court. ~~All capital postconviction actions must be~~  
573 ~~filed as early as possible after the imposition of a sentence of~~  
574 ~~death which may be during a direct appeal of the conviction and~~  
575 ~~sentence.~~ A person sentenced to death or that person's capital  
576 postconviction counsel must file any postconviction ~~legal~~ action  
577 in compliance with the timeframes ~~statutes of limitation~~  
578 established in s. 924.056, s. 924.058, and elsewhere in this



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579 chapter. Except as expressly allowed by s. 924.058 ~~s.~~  
580 ~~924.056(5)~~, a person sentenced to death or that person's capital  
581 postconviction counsel may not file more than one postconviction  
582 action in a sentencing court and one appeal therefrom to the  
583 Florida Supreme Court, unless authorized by law.

584 (2) It is the further intent of the Legislature that no  
585 state resources be expended in violation of this act. In the  
586 event that any state employee or party contracting with the  
587 state violates the provisions of this act, the Attorney General  
588 shall deliver to the Speaker of the House of Representatives and  
589 the President of the Senate a copy of any court pleading or  
590 order that describes or adjudicates a violation.

591 Section 14. Section 924.056, Florida Statutes, is amended  
592 to read:

593 (Substantial rewording of section.

594 See s. 924.056, F.S., for present text.)

595 924.056 Capital postconviction proceedings.—This section  
596 governs all postconviction proceedings in every capital case in  
597 which the conviction and sentence of death have been affirmed on  
598 direct appeal on or after July 1, 2015.

599 (1) APPOINTMENT OF POSTCONVICTION COUNSEL.—

600 (a) Upon the issuance of the mandate affirming a judgment  
601 and sentence of death on direct appeal, the Supreme Court of  
602 Florida shall at the same time issue an order appointing the  
603 appropriate office of the Capital Collateral Regional Counsel.

604 (b) Within 30 days of being appointed, the regional counsel  
605 shall file a notice of appearance in the trial court or a motion  
606 to withdraw based on an actual conflict of interest or some  
607 other legal ground. Motions to withdraw filed more than 30 days



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608 after being appointed shall not be entertained unless based on  
609 an actual conflict of interest.

610 (c) The court shall conduct a hearing in accordance with s.  
611 924.059 if the regional counsel's motion to withdraw is based on  
612 an actual conflict. If the regional counsel files a motion to  
613 withdraw based on any other legal ground, the chief judge or  
614 assigned judge shall rule on the motion within 15 days of the  
615 filling of the motion. If the court determines that new  
616 postconviction counsel should be appointed, the court shall  
617 appoint another regional counsel and, only if a conflict exists  
618 with the replacement regional counsel, appoint new  
619 postconviction counsel from the statewide registry of attorneys  
620 compiled and maintained by the Justice Administrative Commission  
621 pursuant to s. 27.710.

622 (d) If the defendant requests without good cause that any  
623 attorney appointed under this subsection be removed or replaced,  
624 the court shall notify the defendant that no further state  
625 resources may be expended for postconviction representation for  
626 that defendant, unless the defendant withdraws the request to  
627 remove or replace postconviction counsel. If the defendant does  
628 not withdraw his or her request, then any appointed attorney  
629 must be removed from the case and no further state resources may  
630 be expended for the defendant's postconviction representation.

631 (2) PRELIMINARY PROCEDURES.-

632 (a) Within 30 days of the issuance of mandate affirming a  
633 judgment and sentence of death on direct appeal, the chief judge  
634 shall assign the case to a judge qualified under the Rules of  
635 Judicial Administration to conduct capital proceedings.

636 (b) The assigned judge shall conduct a status conference no



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637 later than 90 days after the judicial assignment, and shall hold  
638 status conferences at least every 90 days thereafter until the  
639 evidentiary hearing has been completed or the postconviction  
640 motion has been ruled on without a hearing. The attorneys, with  
641 leave of the trial court, may, with leave of the court, appear  
642 electronically at the status conferences. Requests to appear  
643 electronically shall be liberally granted. Pending motions,  
644 disputes involving public records, or any other matters ordered  
645 by the court shall be heard at the status conferences. The  
646 inmate's presence is not required at status conferences held  
647 pursuant to this paragraph.

648 (c) Within 45 days of appointment of postconviction  
649 counsel, the defendant's trial counsel shall provide to  
650 postconviction counsel all information pertaining to the  
651 defendant's capital case which was obtained during the  
652 representation of the defendant. Postconviction counsel shall  
653 maintain the confidentiality of all confidential information  
654 received.

655 (3) TIME LIMITATIONS ON FILING A POSTCONVICTION MOTION.—

656 (a) Any postconviction motion must be filed by the inmate  
657 within one year after the judgment and sentence become final.  
658 For the purposes of this subsection, a judgment is final:

659 1. Upon the expiration of the time permitted to file in the  
660 United States Supreme Court a petition for writ of certiorari  
661 seeking review of the Supreme Court of Florida decision  
662 affirming a judgment and sentence of death; or

663 2. Upon the disposition of the petition for writ of  
664 certiorari by the United States Supreme Court, if filed.

665 (b) No postconviction motion shall be filed or considered



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666 pursuant to this subsection if filed beyond the time limitation  
667 provided in paragraph (a) unless it alleges:

668 1. The facts on which the motion is predicated were unknown  
669 to the movant or the movant's attorney and could not have been  
670 ascertained by the exercise of due diligence;

671 2. The fundamental constitutional right asserted was not  
672 established within the period provided for in paragraph (a) and  
673 has been held to apply retroactively; or

674 3. Postconviction counsel, through neglect, failed to file  
675 the motion.

676 (c) All petitions for extraordinary relief in which the  
677 Supreme Court of Florida has original jurisdiction, including  
678 petitions for writs of habeas corpus, shall be filed  
679 simultaneously with the initial brief filed on behalf of the  
680 death-sentenced inmate in the appeal of the circuit court's  
681 order on the initial motion for postconviction relief filed  
682 under this subsection.

683 (d) The time limitation provided in paragraph (a) is  
684 established with the understanding that each inmate sentenced to  
685 death will have counsel assigned and available to begin  
686 addressing the inmate's postconviction issues within the time  
687 specified in this subsection. Should the Governor sign a death  
688 warrant before the expiration of the time limitation provided in  
689 paragraph (a), the Supreme Court of Florida, on a defendant's  
690 request, will grant a stay of execution to allow any  
691 postconviction relief motions to proceed in a timely manner.

692 (4) CONTENTS OF A POSTCONVICTION MOTION.—

693 (a) No state court shall consider a postconviction motion  
694 unless the motion is fully pled. For the purposes of this



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695 subsection, a fully pled postconviction motion is one which  
696 complies with paragraph (b). The fully pled postconviction  
697 motion must raise all cognizable claims that the defendant's  
698 judgment or sentence was entered in violation of the  
699 Constitution or laws of the United States or the Constitution or  
700 the laws of the state, including any claim of ineffective  
701 assistance of trial counsel or direct appeal counsel,  
702 allegations of innocence, or that the state withheld evidence  
703 favorable to the defendant.

704 (b) The defendant's postconviction motion shall be filed  
705 under oath and shall be fully pled to include:

706 1. The judgment or sentence under attack and the court  
707 which rendered the same;

708 2. A statement of each issue raised on appeal and the  
709 disposition thereof;

710 3. Whether a previous postconviction motion has been filed  
711 and, if so, the disposition of all previous claims raised in  
712 postconviction litigation; if a previous motion or motions have  
713 been filed, the reason or reasons the claim or claims in the  
714 present motion were not raised in the former motion or motions;

715 4. The nature of the relief sought;

716 5. A fully detailed allegation of the factual basis for any  
717 claim for which an evidentiary hearing is sought, including the  
718 attachment of any document supporting the claim, the name and  
719 address of any witness, the attachment of affidavits of the  
720 witnesses or a proffer of the testimony;

721 6. A fully detailed allegation as to the basis for any  
722 purely legal or constitutional claim for which an evidentiary  
723 hearing is not required and the reason that this claim could not



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724 have been or was not raised on direct appeal; and

725 7. A concise memorandum of applicable case law as to each  
726 claim asserted.

727 (c) A postconviction motion and memorandum of law filed  
728 under this subsection shall not exceed 75 pages exclusive of the  
729 attachments. Attachments shall include, but are not limited to,  
730 the judgment and sentence. The memorandum of law shall set forth  
731 the applicable case law supporting the granting of relief as to  
732 each separately pled claim.

733 (d) Claims raised in a postconviction motion that could  
734 have or should have been raised at trial and, if properly  
735 preserved, on direct appeal of the judgment and sentence, are  
736 barred.

737 (e) A postconviction motion may not include a claim of  
738 ineffective assistance of collateral postconviction counsel.

739 (f) A postconviction motion may not be amended without  
740 court approval. In no instance shall such motion be amended  
741 beyond the time limitations provided by subsection (3) for the  
742 filing of a postconviction motion. If amendment is allowed, the  
743 state shall file an amended answer within 20 days after the  
744 amended motion is filed.

745 (g) Any postconviction motion that does not comply with any  
746 requirement in this subsection shall not be considered in any  
747 state court.

748 (5) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.—

749 (a) All pleadings in a postconviction proceeding shall be  
750 filed with the clerk of the trial court and served on the  
751 assigned judge, opposing party, and the Attorney General. The  
752 clerk shall immediately deliver to the chief judge or the



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753 assigned judge any motion filed in a postconviction proceeding  
754 along with the court file.

755 (b) If the defendant intends to offer expert testimony of  
756 his or her mental status in a postconviction proceeding, the  
757 state shall be entitled to have the defendant examined by its  
758 own mental health expert. If the defendant fails to cooperate  
759 with the state's expert, the trial court may, in its discretion,  
760 proceed as provided in rule 3.202(e) of the Florida Rules of  
761 Criminal Procedure. Reports provided to either party by an  
762 expert witness shall be disclosed to opposing counsel upon  
763 receipt.

764 (c) The state shall file its answer within 60 days of the  
765 filing of an initial postconviction motion. The answer and  
766 accompanying memorandum of law shall not exceed 75 pages,  
767 exclusive of attachments and exhibits. The answer shall address  
768 the legal sufficiency of any claim in the motion, respond to the  
769 allegations of the motion, address any procedural bars, and  
770 state the reasons that an evidentiary hearing is or is not  
771 required. As to any claims of legal insufficiency or procedural  
772 bar, the state shall include a short statement of any applicable  
773 case law.

774 (d) No later than 30 days after the state files its answer  
775 to an initial motion, the trial court shall hold a case  
776 management conference. At the case management conference, both  
777 parties shall disclose all documentary exhibits that they intend  
778 to offer at the evidentiary hearing, provide an exhibit list of  
779 all such exhibits, and exchange a witness list with the names  
780 and addresses of any potential witnesses. All expert witnesses  
781 shall be specifically designated on the witness list, and copies



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782 of all expert reports shall be attached. At the case management  
783 conference, the trial court shall:

784 1. Schedule an evidentiary hearing, to be held within 90  
785 days, on claims listed by the defendant as requiring a factual  
786 determination;

787 2. Hear argument on any purely legal claims not based on  
788 disputed facts; and

789 3. Resolve disputes arising from the exchange of  
790 information under this paragraph.

791 (e) If the court determines that an evidentiary hearing is  
792 not necessary and that the defendant's postconviction motion is  
793 legally insufficient or that the motion, files, and records in  
794 the case show that the defendant is not entitled to relief, the  
795 court shall, within 30 days of the conclusion of the case  
796 management conference, deny the motion, setting forth a detailed  
797 rationale therefore, and attaching or referencing such portions  
798 of the record as are necessary to allow for meaningful appellate  
799 review.

800 (f) Immediately following an evidentiary hearing, the trial  
801 court shall order a transcript of the hearing which shall be  
802 filed within 30 days. Within 30 days of receipt of the  
803 transcript, the court shall render its order, ruling on each  
804 claim considered at the evidentiary hearing and all other claims  
805 raised in the postconviction motion, making detailed findings of  
806 fact and conclusions of law with respect to each claim, and  
807 attaching or referencing such portions of the record as are  
808 necessary to allow for meaningful appellate review. The order  
809 issued after the evidentiary hearing shall resolve all the  
810 claims raised in the postconviction motion and shall be



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811 considered the final order for purposes of appeal. The clerk of  
812 the trial court shall promptly serve upon the parties and the  
813 Attorney General a copy of the final order, with a certificate  
814 of service.

815 (g) Motions for rehearing shall be filed within 15 days of  
816 the rendition of the trial court's order and a response thereto  
817 filed within 10 days thereafter. The trial court's order  
818 disposing of the motion for rehearing shall be rendered no later  
819 than 15 days after the response is filed.

820 (h) An appeal may be taken by filing a notice to appeal  
821 with the Florida Supreme Court within 15 days of the entry of a  
822 final order on a capital postconviction motion. No interlocutory  
823 appeal shall be permitted.

824 Section 15. Section 924.057, Florida Statutes, is amended  
825 to read:

826 924.057 ~~Limitation on~~ Capital postconviction proceedings in  
827 cases in which the conviction and sentence of death were  
828 affirmed on direct appeal before July 1, 2015 ~~death sentence was~~  
829 ~~imposed before January 14, 2000. This section shall govern all~~  
830 ~~capital postconviction actions in cases in which the trial court~~  
831 ~~imposed the sentence of death before the effective date of this~~  
832 ~~act.~~

833 (1) Nothing in this act shall expand any right or time  
834 period allowed for the prosecution of capital postconviction  
835 claims in any case in which a postconviction action was  
836 commenced or should have been commenced prior to the effective  
837 date of this act.

838 (2) Postconviction proceedings in every capital case in  
839 which the conviction and sentence of death have been affirmed on



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840 direct appeal before July 1, 2015, shall be governed by the  
841 rules and laws in effect immediately prior to the effective date  
842 of this act.

843 ~~(2) Except as provided in s. 924.056(5), in every case in~~  
844 ~~which mandate has issued in the Florida Supreme Court concluding~~  
845 ~~at least one capital postconviction action in the state court~~  
846 ~~system, a successive capital postconviction action shall be~~  
847 ~~barred on the effective date of this act, unless the rules or~~  
848 ~~law in effect immediately prior to the effective date of this~~  
849 ~~act permitted the successive postconviction action, in which~~  
850 ~~case the action shall be barred on the date provided in~~  
851 ~~subsection (4).~~

852 ~~(3) All capital postconviction actions pending on the~~  
853 ~~effective date of this act shall be barred, and shall be~~  
854 ~~dismissed with prejudice, unless fully pled in substantial~~  
855 ~~compliance with s. 924.058, or with any superseding order or~~  
856 ~~rule, on or before:~~

857 ~~(a) The time in which the action would be barred by this~~  
858 ~~section if the action had not begun prior to the effective date~~  
859 ~~of this act, or~~

860 ~~(b) Any earlier date provided by the rules or law, or court~~  
861 ~~order, in effect immediately prior to the effective date of this~~  
862 ~~act.~~

863 ~~(4) In every capital case in which the trial court imposed~~  
864 ~~the sentence of death before the effective date of this act, a~~  
865 ~~capital postconviction action shall be barred unless it is~~  
866 ~~commenced on or before January 8, 2001, or any earlier date~~  
867 ~~provided by the rule or law in effect immediately prior to the~~  
868 ~~effective date of this act.~~



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869 Section 16. Section 924.058, Florida Statutes, is amended  
870 to read:

871 (Substantial rewording of section.

872 See s. 924.058, F.S., for present text.)

873 924.058 Successive postconviction motions.—This section  
874 governs successive postconviction motions in all postconviction  
875 proceedings in every capital case in which the conviction and  
876 sentence of death have been affirmed on direct appeal on or  
877 after July 1, 2015. A postconviction motion is successive if a  
878 state court has previously ruled on a postconviction motion  
879 challenging the same judgment and sentence.

880 (1) TIME LIMITATIONS ON FILING A SUCCESSIVE POSTCONVICTION  
881 MOTION.—

882 (a) A successive postconviction motion is barred unless  
883 commenced by filing a fully pled successive postconviction  
884 motion within 90 days:

885 1. After the facts giving rise to the claim were discovered  
886 or should have been discovered with the exercise of due  
887 diligence; or

888 2. After the fundamental constitutional right asserted was  
889 established and held to apply retroactively.

890 (b) No successive postconviction motion shall be filed or  
891 considered pursuant to this subsection if filed beyond the time  
892 limitation provided in paragraph (a) unless it alleges that  
893 postconviction counsel, through neglect, failed to file the  
894 motion.

895 (2) CONTENTS OF A SUCCESSIVE POSTCONVICTION MOTION.—

896 (a) No state court shall consider a successive  
897 postconviction motion unless the motion is fully pled. For the



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898 purposes of this subsection, a fully pled successive  
899 postconviction motion includes:

900 1. All of the pleading requirements of an initial  
901 postconviction motion under s. 924.056;

902 2. The disposition of all previous claims raised in  
903 postconviction proceedings and the reason or reasons the claim  
904 or claims raised in the present motion were not raised in the  
905 former motion or motions;

906 3. If based upon newly discovered evidence, *Brady v.*  
907 *Maryland*, 373 U.S. 83 (1963), or *Giglio v. United States*, 405  
908 U.S. 150 (1972), the following:

909 a. The names, addresses, and telephone numbers of all  
910 witnesses supporting the claim;

911 b. A statement that the witness will be available, should  
912 an evidentiary hearing be scheduled, to testify under oath to  
913 the facts alleged in the motion or affidavit;

914 c. If evidentiary support is in the form of documents,  
915 copies of all documents shall be attached, including any  
916 affidavits obtained; and

917 d. As to any witness or document listed in the motion or  
918 attachment to the motion, a statement of the reason why the  
919 witness or document was not previously available.

920 (b) A successive postconviction motion and memorandum of  
921 law filed under this subsection shall not exceed 25 pages  
922 exclusive of the attachments. Attachments shall include, but are  
923 not limited to, the judgment and sentence. The memorandum of law  
924 shall set forth the applicable case law supporting the granting  
925 of relief as to each separately pled claim.

926 (c) Claims raised in a successive postconviction motion



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927 that could have or should have been raised at trial, on direct  
928 appeal of the judgment and sentence, if properly preserved, and  
929 in the initial postconviction motion, are barred.

930 (d) A successive postconviction motion may not include a  
931 claim of ineffective assistance of collateral postconviction  
932 counsel.

933 (e) A successive postconviction motion may not be amended  
934 without court approval. In no instance shall such motion be  
935 amended beyond the time limitations provided by subsection (1)  
936 for the filing of a successive postconviction motion. If  
937 amendment is allowed, the state shall file an amended answer  
938 within 20 days after the amended motion is filed.

939 (f) Any successive postconviction motion that does not  
940 comply with any requirement in this subsection shall not be  
941 considered in any state court.

942 (3) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.-

943 (a) If the defendant intends to offer expert testimony of  
944 his or her mental status in a successive postconviction motion  
945 proceeding, the state shall be entitled to have the defendant  
946 examined by its own mental health expert. If the defendant fails  
947 to cooperate with the state's expert, the trial court may, in  
948 its discretion, proceed as provided in rule 3.202(e) of the  
949 Florida Rules of Criminal Procedure. Reports provided to either  
950 party by an expert witness shall be disclosed to opposing  
951 counsel upon receipt.

952 (b) The state shall file its answer within 20 days of the  
953 filing of a successive postconviction motion. The answer shall  
954 not exceed 25 pages, exclusive of attachments and exhibits. The  
955 answer shall address the legal sufficiency of any claim in the



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956 motion, respond to the allegations of the motion, address any  
957 procedural bars, and state the reasons that an evidentiary  
958 hearing is or is not required. As to any claims of legal  
959 insufficiency or procedural bar, the answer shall include a  
960 short statement of any applicable case law.

961 (c) No later than 30 days after the state files its answer  
962 to a successive postconviction motion, the trial court shall  
963 hold a case management conference. At the case management  
964 conference, both parties shall disclose all documentary exhibits  
965 that they intend to offer at the evidentiary hearing, provide an  
966 exhibit list of all such exhibits, and exchange a witness list  
967 with the names and addresses of any potential witnesses. All  
968 expert witnesses shall be specifically designated on the witness  
969 list, and copies of all expert reports shall be attached. At the  
970 case management conference, the trial court shall:

971 1. Schedule an evidentiary hearing, to be held within 90  
972 days, on claims listed by the defendant as requiring a factual  
973 determination;

974 2. Hear argument on any purely legal claims not based on  
975 disputed facts; and

976 3. Resolve disputes arising from the exchange of  
977 information under this paragraph.

978 (d) If the court determines that an evidentiary hearing is  
979 not necessary and that the defendant's successive postconviction  
980 motion is legally insufficient or that the motion, files, and  
981 records in the case show that the defendant is not entitled to  
982 relief, the court shall, within 30 days of the conclusion of the  
983 case management conference, deny the motion, setting forth a  
984 detailed rationale therefore, and attaching or referencing such



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985 portions of the record as are necessary to allow for meaningful  
986 appellate review.

987 (e) Immediately following an evidentiary hearing, the trial  
988 court shall order a transcript of the hearing which shall be  
989 filed within 30 days. Within 30 days of receipt of the  
990 transcript, the court shall render its order, ruling on each  
991 claim considered at the evidentiary hearing and all other claims  
992 raised in the successive postconviction motion, making detailed  
993 findings of fact and conclusions of law with respect to each  
994 claim, and attaching or referencing such portions of the record  
995 as are necessary to allow for meaningful appellate review. The  
996 order issued after the evidentiary hearing shall resolve all the  
997 claims raised in the successive postconviction motion and shall  
998 be considered the final order for purposes of appeal. The clerk  
999 of the trial court shall promptly serve upon the parties and the  
1000 Attorney General a copy of the final order, with a certificate  
1001 of service.

1002 (f) Motions for rehearing shall be filed within 15 days of  
1003 the rendition of the trial court's order and a response thereto  
1004 filed within 10 days thereafter. The trial court's order  
1005 disposing of the motion for rehearing shall be rendered no later  
1006 than 15 days after the response is filed.

1007 (g) An appeal may be taken by filing a notice to appeal  
1008 with the Florida Supreme Court within 15 days of the entry of a  
1009 final order on a capital postconviction motion. No interlocutory  
1010 appeal shall be permitted.

1011 Section 17. Section 924.0581, Florida Statutes, is created  
1012 to read:

1013 924.0581 Capital postconviction appeals to the Florida



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1014 Supreme Court.—This section governs capital postconviction  
1015 appeals to the Florida Supreme Court in every capital case in  
1016 which the conviction and sentence of death have been affirmed on  
1017 direct appeal on or after July 1, 2015.

1018 (1) Initial and Successive Postconviction Motion Appeals.—

1019 (a) When the notice of appeal is filed in the Florida  
1020 Supreme Court, the chief justice shall direct the appropriate  
1021 chief judge of the circuit court to monitor the preparation of  
1022 the complete record for timely filing in the Florida Supreme  
1023 Court.

1024 (b) The complete record in a death penalty appeal shall  
1025 include transcripts of all proceedings conducted in the lower  
1026 court, all items required by rule 9.200 of the Florida Rules of  
1027 Appellate Procedure, and any item listed in any order issued by  
1028 the Florida Supreme Court. The record shall begin with the most  
1029 recent mandate issued by the Florida Supreme Court; or, in the  
1030 event the preceding appeal was disposed of without a mandate,  
1031 the most recent filing not already transmitted to the Florida  
1032 Supreme Court in a prior record. The record shall exclude any  
1033 materials already transmitted to the Florida Supreme Court as  
1034 the record in any prior appeal.

1035 (c) The Florida Supreme Court shall take judicial notice of  
1036 the appellate records in all prior appeals and writ proceedings  
1037 involving a challenge to the same judgment of conviction and  
1038 sentence of death. Appellate records subject to judicial notice  
1039 under this section shall not be duplicated in the record  
1040 transmitted for the appeal under review.

1041 (d) If the sentencing court has denied the initial or  
1042 successive postconviction motion without an evidentiary hearing,



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1043 the Florida Supreme Court shall initially review the case to  
1044 determine whether the trial court correctly resolved the  
1045 defendant's claims without an evidentiary hearing. If the  
1046 Florida Supreme Court determines an evidentiary hearing should  
1047 have been held, the court may remand the case for an evidentiary  
1048 hearing. Jurisdiction shall be relinquished to the trial court  
1049 for the purpose of conducting an evidentiary hearing on any  
1050 issues identified in the Florida Supreme Court's order. The  
1051 trial court must schedule an evidentiary hearing within 30 days  
1052 of the Florida Supreme Court's order and conclude the hearing  
1053 within 90 days of scheduling. Upon conclusion of the evidentiary  
1054 hearing, the record shall be supplemented with the hearing  
1055 transcript.

1056 (e) The defendant has 30 days from the date the record is  
1057 filed to file an initial brief. The answer brief must be filed  
1058 within 20 days after filing of the initial brief. The reply  
1059 brief, if any, must be filed within 20 days after filing of the  
1060 answer brief. The cross-reply brief, if any, shall be filed  
1061 within 20 days thereafter. A brief submitted after these time  
1062 periods is barred and shall not be heard.

1063 (f) Oral arguments shall be scheduled within 30 days after  
1064 the filing of the defendant's replay brief.

1065 (g)1. The Florida Supreme Court shall render its decision  
1066 within 180 days after oral arguments have concluded. If a denial  
1067 of an action for postconviction relief is affirmed, the Governor  
1068 may proceed to issue a warrant for execution.

1069 2. In instances where the Florida Supreme Court does not  
1070 comply with subparagraph 1., the Chief Justice of the Florida  
1071 Supreme Court shall, within 10 days after the expiration of the



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1072 180 day deadline, submit a report to the Speaker of the Florida  
1073 House of Representatives and the President of the Florida Senate  
1074 explaining why a decision was not timely rendered. The Chief  
1075 Justice shall submit a report to the Speaker of the Florida  
1076 House of Representatives and the President of the Florida Senate  
1077 every 30 days thereafter in which a decision is not rendered  
1078 explaining the reasons therefore.

1079 (2) PETITIONS FOR EXTRAORDINARY RELIEF.—

1080 (a) Review proceedings under this subsection shall be  
1081 treated as original proceedings under rule 9.100 of the Rules of  
1082 Appellate Procedure, except as otherwise provided in this  
1083 subsection.

1084 (b) A petition for extraordinary relief shall be in the  
1085 form prescribed by rule 9.100 of the Rules of Appellate  
1086 Procedure, may include supporting documents, and shall recite in  
1087 the statement of facts:

1088 1. The date and nature of the lower tribunal's order sought  
1089 to be reviewed;

1090 2. The name of the lower tribunal rendering the order;

1091 3. The nature, disposition, and dates of all previous court  
1092 proceedings;

1093 4. If a previous petition was filed, the reason the claim  
1094 in the present petition was not raised previously; and

1095 5. The nature of the relief sought.

1096 (c) 1. A petition for belated appeal shall include a  
1097 detailed allegation of the specific acts sworn to by the  
1098 petitioner or petitioner's counsel that constitute the basis for  
1099 entitlement to belated appeal, including whether petitioner  
1100 requested counsel to proceed with the appeal and the date of any



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1101 such request, whether counsel misadvised the petitioner as to  
1102 the availability of appellate review or the filing of the notice  
1103 of appeal, or whether there were circumstances unrelated to  
1104 counsel's action or inaction, including names of individuals  
1105 involved and dates of the occurrences, that were beyond the  
1106 petitioner's control and otherwise interfered with the  
1107 petitioner's ability to file a timely appeal.

1108 2. A petition for belated appeal shall not be filed more  
1109 than 1 year after the expiration of time for filing the notice  
1110 of appeal from a final order denying relief pursuant to s.  
1111 924.056 or s. 924.058, unless it alleges under oath with a  
1112 specific factual basis that the petitioner:

1113 a. Was unaware an appeal had not been timely filed, was not  
1114 advised of the right to an appeal, was misadvised as to the  
1115 rights to an appeal, or was prevented from timely filing a  
1116 notice of appeal due to circumstances beyond the petitioner's  
1117 control; and

1118 b. Could not have ascertained such facts by the exercise of  
1119 due diligence.

1120 (d) A petition alleging ineffective assistance of appellate  
1121 counsel must include detailed allegations of the specific acts  
1122 that constitute the alleged ineffective assistance of counsel on  
1123 direct appeal and must be filed simultaneously with the initial  
1124 brief in the appeal from the lower tribunal's final order  
1125 denying relief pursuant to s. 924.056 or s. 924.058.

1126 (3) PETITIONS SEEKING RELIEF OF NONFINAL ORDERS IN DEATH  
1127 PENALTY POSTCONVICTION PROCEEDINGS.—

1128 (a) This subsection applies to proceedings that invoke the  
1129 jurisdiction of the supreme court for review of nonfinal orders



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1130 issued in postconviction proceedings following the imposition of  
1131 the death penalty. Review of such proceedings shall be treated  
1132 as original proceedings under rule 9.100 of the Rules of  
1133 Appellate Procedure, except as otherwise provided in this  
1134 subsection.

1135 (b) Jurisdiction of the Florida Supreme Court shall be  
1136 invoked by filing a petition with the Clerk of the Florida  
1137 Supreme Court within 30 days of rendition of the nonfinal order  
1138 to be reviewed. A copy of the petition shall be served on the  
1139 opposing party and furnished to the judge who issued the order  
1140 to be reviewed. Either party to the death penalty postconviction  
1141 proceedings may seek review under this subsection.

1142 (c) The petition shall be in the form prescribed by rule  
1143 9.100 of the Rules of Appellate Procedure, and shall contain:

- 1144 1. The basis for invoking the jurisdiction of the court;  
1145 2. The date and nature of the order sought to be reviewed;  
1146 3. The name of the lower tribunal rendering the order;  
1147 4. The name, disposition, and dates of all previous trial,

1148 appellate, and postconviction proceedings relating to the  
1149 conviction and death sentence that are the subject of the  
1150 proceedings in which the order sought to be reviewed was  
1151 entered;

1152 5. The facts on which the petitioner relies, with  
1153 references to the appropriate pages of the supporting appendix;

1154 6. Argument in support of the petition, including an  
1155 explanation of why the order departs from the essential  
1156 requirements of law and how the order may cause material injury  
1157 for which there is no adequate remedy on appeal, and appropriate  
1158 citations of authority; and



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1159           7. The nature of the relief sought.

1160           (d) The petition shall be accompanied by an appendix, as  
1161 prescribed by rule 9.220 of the Rules of Appellate Procedure,  
1162 which shall contain the portions of the record necessary for a  
1163 determination of the issues presented.

1164           (e) If the petition demonstrates a preliminary basis for  
1165 relief or a departure from the essential requirements of law  
1166 that may cause material injury for which there is no adequate  
1167 remedy by appeal, the court may issue an order directing the  
1168 respondent to show cause, within the time set by the court, why  
1169 relief should not be granted. No response shall be permitted  
1170 unless ordered by the court. Within 20 days after service of the  
1171 response or such other time set by the court, the petitioner may  
1172 serve a reply, which shall not exceed 15 pages in length, and  
1173 supplemental appendix.

1174           (f) A stay of proceedings under this subsection is not  
1175 automatic. The party seeking a stay must petition the Florida  
1176 Supreme Court for a stay of proceedings. During the pendency of  
1177 a review of a nonfinal order, unless a stay is granted by the  
1178 Florida Supreme Court, the lower tribunal may proceed with all  
1179 matters, except that the lower tribunal may not render a final  
1180 order disposing of the cause pending review of the nonfinal  
1181 order.

1182           (g) The parties may not file any other pleadings, motions,  
1183 replies, or miscellaneous papers without leave of court.

1184           (h) Seeking review under this subsection shall not extend  
1185 the time limitations in s. 924.056, s. 924.058, or s. 27.7081.

1186           Section 18. Effective July 1, 2013, section 924.0585,  
1187 Florida Statutes, is created to read:



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1188           924.0585 Capital postconviction proceedings; reporting  
1189 requirements.—The Florida Supreme Court shall annually report to  
1190 the Speaker of the Florida House of Representatives and the  
1191 President of the Florida Senate the status of each capital case  
1192 in which a postconviction action has been filed that has been  
1193 pending for more than 3 years. The report must include the name  
1194 of the state court judge involved in the case.

1195           Section 19. Section 924.0585, Florida Statutes, as created  
1196 by this act, is amended to read:

1197           924.0585 Capital postconviction proceedings; reporting  
1198 requirements.—

1199           (3) A capital postconviction action filed in violation of  
1200 the time limitations provided by statute is barred, and all  
1201 claims raised therein are waived. A state court shall not  
1202 consider any capital postconviction action filed in violation of  
1203 s. 924.056 or s. 924.058. The Attorney General shall deliver to  
1204 the Governor, the President of the Senate, and the Speaker of  
1205 the House of Representatives a copy of any pleading or order  
1206 that alleges or adjudicates any violation of this provision.

1207           Section 20. Section 924.059, Florida Statutes, is amended  
1208 to read:

1209           (Substantial rewording of section.

1210           See s. 924.059, F.S., for present text.)

1211           924.059 Conflicts of interest in capital postconviction  
1212 proceedings.—In any capital postconviction proceeding in which  
1213 it is alleged that there is a conflict of interest with  
1214 postconviction counsel, the court shall hold a hearing within 30  
1215 days of such allegation to determine whether an actual conflict  
1216 exists and whether such conflict will adversely affect a



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1217 defendant's lawyer's performance. An actual conflict of interest  
1218 exists when an attorney actively represents conflicting  
1219 interests. To demonstrate an actual conflict, the defendant must  
1220 identify specific evidence suggesting that his or her interests  
1221 were or may be compromised. A possible, speculative, or merely  
1222 hypothetical conflict is insufficient to support an allegation  
1223 that a conflict of interest exists. The court must rule within  
1224 10 days of the conclusion of the hearing.

1225 Section 21. Section 924.0591, Florida Statutes, is created  
1226 to read:

1227 924.0591 Incompetence to proceed in capital postconviction  
1228 proceedings.-

1229 (1) A death-sentenced inmate pursuing collateral relief who  
1230 is found by the court to be mentally incompetent shall not be  
1231 proceeded against if there are factual matters at issue, the  
1232 development or resolution of which require the inmate's input.  
1233 However, all collateral relief issues that involve only matters  
1234 of record and claims that do not require the inmate's input  
1235 shall proceed in collateral proceedings notwithstanding the  
1236 inmate's incompetency.

1237 (2) If, at any stage of a postconviction proceeding, the  
1238 court determines that there are reasonable grounds to believe  
1239 that a death-sentenced inmate is incompetent to proceed and that  
1240 factual matters are at issue, the development or resolution of  
1241 which require the inmate's input, a judicial determination of  
1242 incompetency is required.

1243 (3) Collateral counsel may file a motion for competency  
1244 determination and an accompanying certificate of counsel that  
1245 the motion is made in good faith and on reasonable grounds to



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1246 believe that the death-sentenced inmate is incompetent to  
1247 proceed. The motion and certificate shall replace the signed  
1248 oath by the inmate that otherwise must accompany a  
1249 postconviction motion filed under s. 924.056 and s. 924.058.

1250 (4) The motion for competency examination shall be in  
1251 writing and shall allege with specificity the factual matters at  
1252 issue and the reason that a competency consultation with the  
1253 inmate is necessary with respect to each factual matter  
1254 specified. To the extent that it does not invade the lawyer-  
1255 client privilege with collateral counsel, the motion shall  
1256 contain a recital of the specific observations of, and  
1257 conversations with, the death-sentenced inmate that have formed  
1258 the basis of the motion.

1259 (5) If the court finds that there are reasonable grounds to  
1260 believe that a death-sentenced inmate is incompetent to proceed  
1261 in a postconviction proceeding in which factual matters are at  
1262 issue, the development or resolution of which require the  
1263 inmate's input, the court shall order the inmate examined by no  
1264 more than 3, nor fewer than 2, experts before setting the matter  
1265 for a hearing. The court may seek input from the death-sentenced  
1266 inmate's counsel and the state attorney before appointment of  
1267 the experts.

1268 (6) The order appointing experts shall:

1269 (a) Identify the purpose of the evaluation and specify the  
1270 area of inquiry that should be addressed;

1271 (b) Specify the legal criteria to be applied; and

1272 (c) Specify the date by which the report shall be submitted  
1273 and to whom it shall be submitted.

1274 (7) Counsel for both the death-sentenced inmate and the



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1275 state may be present at the examination, which shall be  
1276 conducted at a date and time convenient for all parties and the  
1277 Department of Corrections.

1278 (8) On appointment by the court, the experts shall examine  
1279 the death-sentenced inmate with respect to the issue of  
1280 competence to proceed, as specified by the court in its order  
1281 appointing the experts to evaluate the inmate, and shall  
1282 evaluate the inmate as ordered.

1283 (a) The experts first shall consider factors related to the  
1284 issue of whether the death-sentenced inmate meets the criteria  
1285 for competence to proceed, that is, whether the inmate has  
1286 sufficient present ability to consult with counsel with a  
1287 reasonable degree of rational understanding and whether the  
1288 inmate has a rational as well as factual understanding of the  
1289 pending collateral proceedings.

1290 (b) In considering the issue of competence to proceed, the  
1291 experts shall consider and include in their report:

1292 1. The inmate's capacity to understand the adversary nature  
1293 of the legal process and the collateral proceedings;

1294 2. The inmate's ability to disclose to collateral counsel  
1295 facts pertinent to the postconviction proceeding at issue; and

1296 3. Any other factors considered relevant by the experts and  
1297 the court as specified in the order appointing the experts.

1298 (c) Any written report submitted by an expert shall:

1299 1. Identify the specific matters referred for evaluation;

1300 2. Describe the evaluative procedures, techniques, and  
1301 tests used in the examination and the purpose or purposes for  
1302 each;

1303 3. State the expert's clinical observations, findings, and



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1304 opinions on each issue referred by the court for evaluation, and  
1305 indicate specifically those issues, if any, on which the expert  
1306 could not give an opinion; and

1307 4. Identify the sources of information used by the expert  
1308 and present the factual basis for the expert's clinical findings  
1309 and opinions.

1310 (9) If the experts find that the death-sentenced inmate is  
1311 incompetent to proceed, the experts shall report on any  
1312 recommended treatment for the inmate to attain competence to  
1313 proceed. In considering the issues relating to treatment, the  
1314 experts shall report on:

1315 (a) The mental illness or mental retardation causing the  
1316 incompetence;

1317 (b) The treatment or treatments appropriate for the mental  
1318 illness or mental retardation of the inmate and an explanation  
1319 of each of the possible treatment alternatives in order of  
1320 choices; and

1321 (c) The likelihood of the inmate attaining competence under  
1322 the treatment recommended, an assessment of the probable  
1323 duration of the treatment required to restore competence, and  
1324 the probability that the inmate will attain competence to  
1325 proceed in the foreseeable future.

1326 (10) Within 30 days after the experts have completed their  
1327 examinations of the death-sentenced inmate, the court shall  
1328 schedule a hearing on the issue of the inmate's competence to  
1329 proceed.

1330 (11) If, after a hearing, the court finds the inmate  
1331 competent to proceed, or, after having found the inmate  
1332 incompetent, finds that competency has been restored, the court



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1333 shall enter its order so finding and shall proceed with a  
1334 postconviction motion. The inmate shall have 60 days to amend  
1335 his or her postconviction motion only as to those issues that  
1336 the court found required factual consultation with counsel.

1337 (12) If the court does not find the inmate incompetent, the  
1338 order shall contain:

1339 (a) Findings of fact relating to the issues of competency;

1340 (b) Copies of the reports of the examining experts; and

1341 (c) Copies of any other psychiatric, psychological, or  
1342 social work reports submitted to the court relative to the  
1343 mental state of the death-sentenced inmate.

1344 (13) If the court finds the inmate incompetent or finds the  
1345 inmate competent subject to the continuation of appropriate  
1346 treatment, the court shall follow the procedures set forth in  
1347 rule 3.212(c) of the Florida Rules of Criminal Procedure, except  
1348 that, to the extent practicable, any treatment shall take place  
1349 at a custodial facility under the direct supervision of the  
1350 Department of Corrections.

1351 Section 22. Section 924.0592, Florida Statutes, is created  
1352 to read:

1353 924.0592 Capital postconviction proceedings after a death  
1354 warrant has been issued.—This section governs all postconviction  
1355 proceedings in every capital case in which the conviction and  
1356 sentence of death have been affirmed on direct appeal on or  
1357 after July 1, 2015, and in which a death warrant has been  
1358 issued.

1359 (1) Upon issuance of a death warrant pursuant to s. 922.052  
1360 or s. 922.14, the issuing entity shall notify the chief judge of  
1361 the circuit that sentenced the inmate to death. The chief judge



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1362 shall assign the case to a judge qualified under the Rules of  
1363 Judicial Administration to conduct capital cases immediately  
1364 upon receipt of such notification.

1365 (2) Postconviction proceedings after a death warrant has  
1366 been issued shall take precedence over all other cases. The  
1367 assigned judge shall make every effort to resolve scheduling  
1368 conflicts with other cases including cancellation or  
1369 rescheduling of hearings or trials and requesting senior judge  
1370 assistance.

1371 (3) The time limitations provided in s. 924.056 and s.  
1372 924.058 do not apply after a death warrant has been issued. All  
1373 postconviction motions filed after a death warrant has been  
1374 issued shall be heard expeditiously considering the time  
1375 limitations set by the date of execution and the time required  
1376 for appellate review.

1377 (4) The location of any hearings after a death warrant is  
1378 issued shall be determined by the trial judge considering the  
1379 availability of witnesses or evidence, the security problems  
1380 involved in the case, and any other factor determined by the  
1381 trial court.

1382 (5) All postconviction motions filed after a death warrant  
1383 is issued shall be considered successive motions and subject to  
1384 the content requirement of s. 924.058.

1385 (6) The assigned judge shall schedule a case management  
1386 conference as soon as reasonably possible after receiving  
1387 notification that a death warrant has been issued. During the  
1388 case management conference the court shall set a time for filing  
1389 a postconviction motion, shall schedule a hearing to determine  
1390 whether an evidentiary hearing should be held, and shall hear



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1391 arguments on any purely legal claims not based on disputed  
1392 facts. If the postconviction motion, files, and records in the  
1393 case conclusively show that the movant is entitled to no relief,  
1394 the motion may be denied without an evidentiary hearing. If the  
1395 trial court determines that an evidentiary hearing should be  
1396 held, the court shall schedule the hearing to be held as soon as  
1397 reasonably possible considering the time limitations set by the  
1398 date of execution and the time required for appellate review.

1399 (7) The assigned judge shall require all proceedings  
1400 conducted pursuant to this section to be reported using the most  
1401 advanced and accurate technology available in general use at the  
1402 location of the hearing. The proceedings shall be transcribed  
1403 expeditiously considering the time limitations set by the  
1404 execution date.

1405 (8) The court shall obtain a transcript of all proceedings  
1406 conducted pursuant to this section and shall render its order in  
1407 accordance with s. 924.056(5)(e) as soon as possible after the  
1408 hearing is concluded. A copy of the final order shall be  
1409 electronically transmitted to the Supreme Court of Florida and  
1410 to the attorneys of record. The record shall be immediately  
1411 delivered to the clerk of the Supreme Court of Florida by the  
1412 clerk of the trial court or as ordered by the assigned judge.  
1413 The record shall also be electronically transmitted if the  
1414 technology is available. A notice of appeal shall not be  
1415 required to transmit the record.

1416 Section 23. Section 924.0593, Florida Statutes, is created  
1417 to read:

1418 924.0593 Insanity at the time of execution.-

1419 (1) A person under sentence of death shall not be executed



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1420 while insane. A person under sentence of death is insane for  
1421 purposes of execution if the person lacks the mental capacity to  
1422 understand the fact of the impending execution and the reason  
1423 for it.

1424 (2) No motion for a stay of execution pending hearing,  
1425 based on grounds of the inmate's insanity to be executed, shall  
1426 be entertained by any court until such time as the Governor of  
1427 Florida has held appropriate proceedings for determining the  
1428 issue pursuant to s. 922.07.

1429 (3) (a) On determination of the Governor of Florida,  
1430 subsequent to the signing of a death warrant for an inmate under  
1431 sentence of death and pursuant to s. 922.07, that the inmate is  
1432 sane to be executed, counsel for the inmate may move for a stay  
1433 of execution and a hearing based on the inmate's insanity to be  
1434 executed. The motion:

1435 1. Shall be filed in the circuit court of the circuit in  
1436 which the execution is to take place and shall be heard by one  
1437 of the judges of that circuit or such other judge as shall be  
1438 assigned by the Chief Justice of the Florida Supreme Court to  
1439 hear the motion. The state attorney of the circuit shall  
1440 represent the State of Florida in any proceedings held on the  
1441 motion; and

1442 2. Shall be in writing and shall contain a certificate of  
1443 counsel that the motion is made in good faith and on reasonable  
1444 grounds to believe that the prisoner to be executed is insane.

1445 (b) Counsel for the inmate shall file, along with the  
1446 motion, all reports of experts that were submitted to the  
1447 governor pursuant to s. 922.07. If any of the evidence is not  
1448 available to counsel for the inmate, counsel shall attach to the



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1449 motion an affidavit so stating, with an explanation of why the  
1450 evidence is unavailable.

1451 (c) Counsel for the inmate and the state may submit such  
1452 other evidentiary material and written submissions including  
1453 reports of experts on behalf of the inmate that are relevant to  
1454 determination of the issue.

1455 (d) A copy of the motion and all supporting documents shall  
1456 be served on the Florida Department of Legal Affairs and the  
1457 state attorney of the circuit in which the motion has been  
1458 filed.

1459 (4) If the circuit judge, upon review of the motion and  
1460 submissions, has reasonable grounds to believe that the inmate  
1461 to be executed is insane, the judge shall grant a stay of  
1462 execution and may order further proceedings which may include a  
1463 hearing.

1464 (5) Any hearing on the insanity of the inmate to be  
1465 executed shall not be a review of the Governor's determination,  
1466 but shall be a hearing de novo. At the hearing, the issue the  
1467 court must determine whether the inmate presently meets the  
1468 criteria for insanity at time of execution, that is, whether the  
1469 prisoner lacks the mental capacity to understand the fact of the  
1470 pending execution and the reason for it.

1471 (6) The court may do any of the following as may be  
1472 appropriate and adequate for a just resolution of the issues  
1473 raised:

1474 (a) Require the presence of the inmate at the hearing;

1475 (b) Appoint no more than 3 disinterested mental health  
1476 experts to examine the inmate with respect to the criteria for  
1477 insanity and to report their findings and conclusions to the



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1478 court; or

1479 (c) Enter such other orders as may be appropriate to  
1480 effectuate a speedy and just resolution of the issues raised.

1481 (7) At hearings held pursuant to this section, the court  
1482 may admit such evidence as the court deems relevant to the  
1483 issues, including but not limited to the reports of expert  
1484 witnesses, and the court shall not be strictly bound by the  
1485 rules of evidence.

1486 (8) If, at the conclusion of the hearing, the court finds,  
1487 by clear and convincing evidence, that the inmate is insane, the  
1488 court shall enter its order continuing the stay of the death  
1489 warrant; otherwise, the court shall deny the motion and enter  
1490 its order dissolving the stay of execution.

1491 Section 24. Section 924.0594, Florida Statutes, is created  
1492 to read:

1493 924.0594 Dismissal of postconviction proceedings.—This  
1494 section applies only when an inmate seeks both to dismiss a  
1495 pending postconviction proceedings and to discharge collateral  
1496 counsel.

1497 (1) If an inmate files a motion to dismiss a pending  
1498 postconviction motion and to discharge collateral counsel pro  
1499 se, the Clerk of the Court shall serve copies of the motion on  
1500 counsel of record for both the inmate and the state. Counsel of  
1501 record may file responses within 10 days.

1502 (2) The trial judge shall review the motion and the  
1503 responses and schedule a hearing. The inmate, collateral  
1504 counsel, and the state shall be present at the hearing.

1505 (3) The judge shall examine the inmate at the hearing and  
1506 shall hear argument of the inmate, collateral counsel, and the



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1507 state. No fewer than 2 or more than 3 qualified experts shall be  
1508 appointed to examine the inmate if the judge concludes that  
1509 there are reasonable grounds to believe the inmate is not  
1510 mentally competent for purposes of this section. The experts  
1511 shall file reports with the court setting forth their findings.  
1512 Thereafter, the court shall conduct an evidentiary hearing and  
1513 enter an order setting forth findings of competency or  
1514 incompetency.

1515 (4) If the inmate is found to be incompetent for purposes  
1516 of this section, the court shall deny the motion without  
1517 prejudice.

1518 (5) If the inmate is found to be competent for purposes of  
1519 this section, the court shall conduct a complete  
1520 Durocher/Faretta inquiry to determine whether the inmate  
1521 knowingly, freely, and voluntarily wants to dismiss pending  
1522 postconviction proceedings and discharge collateral counsel.

1523 (6) If the court determines that the inmate has made the  
1524 decision to dismiss pending postconviction proceedings and  
1525 discharge collateral counsel knowingly, freely, and voluntarily,  
1526 the court shall enter an order dismissing all pending  
1527 postconviction proceedings and discharging collateral counsel.  
1528 If the court determines that the inmate has not made the  
1529 decision to dismiss pending postconviction proceedings and  
1530 discharge collateral counsel knowingly, freely, and voluntarily,  
1531 the court shall enter an order denying the motion without  
1532 prejudice.

1533 (7) If the court denies the motion, the inmate may seek  
1534 review pursuant to s. 924.0581(2). If the court grants the  
1535 motion:



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1536 (a) A copy of the motion, the order, and the transcript of  
1537 the hearing or hearings conducted on the motion shall be  
1538 forwarded to the Clerk of the Supreme Court of Florida within 30  
1539 days; and

1540 (b) Discharged counsel shall, within 10 days after issuance  
1541 of the order, file with the clerk of the circuit court 2 copies  
1542 of a notice seeking review in the Supreme Court of Florida, and  
1543 shall, within 20 days after the filing of the transcript, serve  
1544 an initial brief. Both the inmate and the state may serve  
1545 responsive briefs.

1546 (8) (a) Within 10 days of the rendition of an order granting  
1547 a inmate's motion to discharge counsel and dismiss the motion  
1548 for postconviction relief, discharged counsel must file with the  
1549 clerk of the circuit court a notice seeking review in the  
1550 Florida Supreme Court.

1551 (b) The circuit judge presiding over the motion to dismiss  
1552 and discharge counsel shall order a transcript of the hearing to  
1553 be prepared and filed with the clerk of the circuit court no  
1554 later than 25 days from rendition of the final order. Within 30  
1555 days of the granting of a motion to dismiss and discharge  
1556 counsel, the clerk of the circuit court shall forward a copy of  
1557 the motion, order, and transcripts of all hearings held on the  
1558 motion to the Clerk of the Florida Supreme Court.

1559 (c) Within 20 days of the filing of the record in the  
1560 Florida Supreme Court, discharged counsel shall serve an initial  
1561 brief. Both the state and the prisoner may serve responsive  
1562 briefs. All briefs must be served and filed as prescribed by  
1563 rule 9.210 of the Rules of Appellate Procedure.

1564 (d) The Florida Supreme Court shall rule on the motion



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1565 within 60 days of the last brief filing deadline.

1566       Section 25. If any provision of this act or the application  
1567 thereof to any person or circumstance is held invalid, the  
1568 invalidity does not affect other provisions or applications of  
1569 the act which can be given effect without the invalid provision  
1570 or application, and to this end the provisions of this act are  
1571 declared severable.

1572       Section 26. Except as otherwise provided herein, this act  
1573 shall take effect July 1, 2015, contingent upon voter approval  
1574 of SJR .... in the General Election of 2014.