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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2013	.	
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The Committee on Appropriations (Negron) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Timely Justice Act of 2013."

Section 2. Subsection (1) of section 27.40, Florida Statutes, is amended to read:

27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.—

(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed



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13 counsel under the Federal or State Constitution or as authorized  
14 by general law. The court shall appoint a public defender to  
15 represent indigent persons as authorized in s. 27.51. The office  
16 of criminal conflict and civil regional counsel shall be  
17 appointed to represent persons in those cases in which provision  
18 is made for court-appointed counsel but the public defender is  
19 unable to provide representation due to a conflict of interest  
20 or is not authorized to provide representation. Capital  
21 collateral regional counsel shall be appointed to represent  
22 persons as provided in s. 27.702.

23 Section 3. Paragraph (a) of subsection (5) of section  
24 27.51, Florida Statutes, is amended to read:

25 27.51 Duties of public defender.—

26 (5) (a) When direct appellate proceedings prosecuted by a  
27 public defender on behalf of an accused and challenging a  
28 judgment of conviction and sentence of death terminate in an  
29 affirmance of such conviction and sentence, whether by the  
30 Florida Supreme Court or by the United States Supreme Court or  
31 by expiration of any deadline for filing such appeal in a state  
32 or federal court, the public defender shall notify the accused  
33 of his or her rights pursuant to Rule 3.850, Florida Rules of  
34 Criminal Procedure, including any time limits pertinent thereto,  
35 and shall advise such person that representation in any  
36 collateral proceedings is the responsibility of the capital  
37 collateral regional counsel. The public defender shall then  
38 forward all original files on the matter to the capital  
39 collateral regional counsel, retaining such copies for his or  
40 her files as may be desired. ~~However, the trial court shall~~  
41 ~~retain the power to appoint the public defender or other~~



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42 ~~attorney not employed by the capital collateral regional counsel~~  
43 ~~to represent such person in proceedings for relief by executive~~  
44 ~~elemency pursuant to ss. 27.40 and 27.5303.~~

45 Section 4. Subsection (9) of section 27.511, Florida  
46 Statutes, is amended to read:

47 27.511 Offices of criminal conflict and civil regional  
48 counsel; legislative intent; qualifications; appointment;  
49 duties.—

50 (9) When direct appellate proceedings prosecuted by the  
51 office of criminal conflict and civil regional counsel on behalf  
52 of an accused and challenging a judgment of conviction and  
53 sentence of death terminate in an affirmance of such conviction  
54 and sentence, whether by the Supreme Court or by the United  
55 States Supreme Court or by expiration of any deadline for filing  
56 such appeal in a state or federal court, the office of criminal  
57 conflict and civil regional counsel shall notify the accused of  
58 his or her rights pursuant to Rule 3.850, Florida Rules of  
59 Criminal Procedure, including any time limits pertinent thereto,  
60 and shall advise such person that representation in any  
61 collateral proceedings is the responsibility of the capital  
62 collateral regional counsel. The office of criminal conflict and  
63 civil regional counsel shall forward all original files on the  
64 matter to the capital collateral regional counsel, retaining  
65 such copies for his or her files as may be desired or required  
66 by law. ~~However, the trial court shall retain the power to~~  
67 ~~appoint the office of criminal conflict and civil regional~~  
68 ~~counsel or other attorney not employed by the capital collateral~~  
69 ~~regional counsel to represent such person in proceedings for~~  
70 ~~relief by executive elemency pursuant to ss. 27.40 and 27.5303.~~



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71 Section 5. Subsection (4) of section 27.5303, Florida  
72 Statutes, is amended to read:

73 27.5303 Public defenders; criminal conflict and civil  
74 regional counsel; conflict of interest.—

75 (4) (a) If a defendant is convicted and the death sentence  
76 is imposed, the appointed attorney shall continue representation  
77 through appeal to the Supreme Court. The attorney shall be  
78 compensated as provided in s. 27.5304. If the attorney first  
79 appointed is unable to handle the appeal, the court shall  
80 appoint another attorney and that attorney shall be compensated  
81 as provided in s. 27.5304.

82 ~~(b) The public defender or an attorney appointed pursuant~~  
83 ~~to this section may be appointed by the court rendering the~~  
84 ~~judgment imposing the death penalty to represent an indigent~~  
85 ~~defendant who has applied for executive clemency as relief from~~  
86 ~~the execution of the judgment imposing the death penalty.~~

87 (b)(c) When the appointed attorney in a capital case has  
88 completed the duties imposed by this section, the attorney shall  
89 file a written report in the trial court stating the duties  
90 performed by the attorney and apply for discharge.

91 Section 6. Paragraph (b) of subsection (5) of section  
92 27.5304, Florida Statutes, is amended to read:

93 27.5304 Private court-appointed counsel; compensation;  
94 notice.—

95 (5) The compensation for representation in a criminal  
96 proceeding shall not exceed the following:

97 (b) If a death sentence is imposed and affirmed on appeal  
98 to the Supreme Court, the appointed attorney shall be allowed  
99 compensation, not to exceed \$1,000, for attorney fees and costs



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100 incurred in representing the defendant as to an application for  
101 executive clemency, with compensation to be paid out of general  
102 revenue from funds budgeted to the Justice Administrative  
103 Commission ~~Department of Corrections~~.

104 Section 7. Section 27.7001, Florida Statutes, is amended to  
105 read:

106 27.7001 Legislative intent and findings.—It is the intent  
107 of the Legislature to create part IV of this chapter, consisting  
108 of ss. 27.7001-27.711, inclusive, to provide for the collateral  
109 representation of any person convicted and sentenced to death in  
110 this state, so that collateral legal proceedings to challenge  
111 any Florida capital conviction and sentence may be commenced in  
112 a timely manner and so as to assure the people of this state  
113 that the judgments of its courts may be regarded with the  
114 finality to which they are entitled in the interests of justice.  
115 It is the further intent of the Legislature that collateral  
116 representation shall not include representation during retrials,  
117 resentencings, ~~proceedings commenced under chapter 940~~, or civil  
118 litigation.

119 Section 8. Section 27.701, Florida Statutes, is amended to  
120 read:

121 27.701 Capital collateral regional counsel.—

122 ~~(1)~~ There are created three regional offices of capital  
123 collateral counsel, which shall be located in a northern,  
124 middle, and southern region of the state. The northern region  
125 shall consist of the First, Second, Third, Fourth, Eighth, and  
126 Fourteenth Judicial Circuits; the middle region shall consist of  
127 the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth,  
128 and Eighteenth Judicial Circuits; and the southern region shall



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129 consist of the Eleventh, Fifteenth, Sixteenth, Seventeenth,  
130 Nineteenth, and Twentieth Judicial Circuits. Each regional  
131 office shall be administered by a regional counsel. A regional  
132 counsel must be, and must have been for the preceding 5 years, a  
133 member in good standing of The Florida Bar or a similar  
134 organization in another state. Each capital collateral regional  
135 counsel shall be appointed by the Governor, and is subject to  
136 confirmation by the Senate. The Supreme Court Judicial  
137 Nominating Commission shall recommend to the Governor three  
138 qualified candidates for each appointment as regional counsel.  
139 The Governor shall appoint a regional counsel for each region  
140 from among the recommendations, or, if it is in the best  
141 interest of the fair administration of justice in capital cases,  
142 the Governor may reject the nominations and request submission  
143 of three new nominees by the Supreme Court Judicial Nominating  
144 Commission. Each capital collateral regional counsel shall be  
145 appointed to a term of 3 years. Vacancies in the office of  
146 capital collateral regional counsel shall be filled in the same  
147 manner as appointments. A person appointed as a regional counsel  
148 may not run for or accept appointment to any state office for 2  
149 years following vacation of office.

150 ~~(2) Notwithstanding the provisions of subsection (1), the~~  
151 ~~responsibilities of the regional office of capital collateral~~  
152 ~~counsel for the northern region of the state shall be met~~  
153 ~~through a pilot program using only attorneys from the registry~~  
154 ~~of attorneys maintained pursuant to s. 27.710. Each attorney~~  
155 ~~participating in the pilot must be qualified to provide~~  
156 ~~representation in federal court. The Auditor General shall~~  
157 ~~schedule a performance review of the pilot program to determine~~



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158 ~~the effectiveness and efficiency of using attorneys from the~~  
159 ~~registry compared to the capital collateral regional counsel.~~  
160 ~~The review, at a minimum, shall include comparisons of the~~  
161 ~~timeliness and costs of the pilot and the counsel and shall be~~  
162 ~~submitted to the President of the Senate and the Speaker of the~~  
163 ~~House of Representatives by January 30, 2007. The Legislature~~  
164 ~~may determine whether to convert the pilot program to a~~  
165 ~~permanent program after receipt of the Auditor General's review.~~

166 Section 9. Subsections (1) and (2) and paragraph (b) of  
167 subsection (4) of section 27.702, Florida Statutes, are amended  
168 to read:

169 27.702 Duties of the capital collateral regional counsel;  
170 reports.-

171 (1) The capital collateral regional counsel shall represent  
172 each person convicted and sentenced to death in this state for  
173 the sole purpose of instituting and prosecuting collateral  
174 actions challenging the legality of the judgment and sentence  
175 imposed against such person in the state courts, federal courts  
176 in this state, the United States Court of Appeals for the  
177 Eleventh Circuit, and the United States Supreme Court; and in  
178 proceedings commenced under chapter 940. ~~The capital collateral~~  
179 ~~regional counsel and the attorneys appointed pursuant to s.~~  
180 ~~27.710 shall file only those postconviction or collateral~~  
181 ~~actions authorized by statute.~~ The three capital collateral  
182 regional counsel's offices shall function independently and be  
183 separate budget entities, and the regional counsel shall be the  
184 office heads for all purposes. The Justice Administrative  
185 Commission shall provide administrative support and service to  
186 the three offices to the extent requested by the regional



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187 counsel. The three regional offices shall not be subject to  
188 control, supervision, or direction by the Justice Administrative  
189 Commission in any manner, including, but not limited to,  
190 personnel, purchasing, transactions involving real or personal  
191 property, and budgetary matters.

192 (2) The capital collateral regional counsel shall represent  
193 persons convicted and sentenced to death within the region in  
194 collateral postconviction proceedings and proceedings under  
195 chapter 940, unless a court appoints or permits other counsel to  
196 appear as counsel of record.

197 (4)

198 (b) Each capital collateral regional counsel ~~and each~~  
199 ~~attorney participating in the pilot program in the northern~~  
200 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report  
201 to the President of the Senate and the Speaker of the House of  
202 Representatives which details the number of hours worked by  
203 investigators and legal counsel per case and the amounts per  
204 case expended during the preceding quarter in investigating and  
205 litigating capital collateral cases.

206 Section 10. Section 27.703, Florida Statutes, is amended to  
207 read:

208 27.703 Conflict of interest and substitute counsel.—

209 (1) The capital collateral regional counsel shall not  
210 accept an appointment or take any other action that will create  
211 an actual conflict of interest. If, at any time during the  
212 representation of a person, the capital collateral regional  
213 counsel alleges ~~determines~~ that the continued representation of  
214 that person creates an actual conflict of interest, the  
215 sentencing court shall, upon determining that an actual conflict



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216 exists upon application by the regional counsel, designate  
217 another regional counsel. If the replacement regional counsel  
218 alleges that an actual conflict of interest exists, the  
219 sentencing court shall, upon determining that an actual conflict  
220 exists and, only if a conflict exists with the other two  
221 counsel, appoint one or more members of The Florida Bar who  
222 meets the requirements of s. 27.710 and who is not disqualified  
223 pursuant to s. 27.7045 to represent the person one or more of  
224 such persons. An actual conflict of interest exists when an  
225 attorney actively represents conflicting interests. A possible,  
226 speculative, or merely hypothetical conflict is insufficient to  
227 support an allegation that a conflict of interest exists.

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

232 (3) Capital collateral regional Prior to employment,  
233 counsel appointed pursuant to this section must have  
234 participated in at least five felony jury trials, five felony  
235 appeals, or five capital postconviction evidentiary hearings, or  
236 any combination of at least five of such proceedings, and must  
237 not be disqualified pursuant to s. 27.7045.

238 Section 11. Section 27.7045, Florida Statutes, is created  
239 to read:

240 27.7045 Capital case proceedings; constitutionally  
241 deficient representation.— Notwithstanding any other provision  
242 of law, an attorney employed by the state of Florida or  
243 appointed pursuant to s. 27.711 may not represent a person  
244 charged with a capital offense at trial or on direct appeal, or



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245 a person sentenced to death in a postconviction proceeding if,  
246 in two separate instances, a court, in a capital postconviction  
247 proceeding, determined that such attorney provided  
248 constitutionally deficient representation and relief was granted  
249 as a result. This prohibition on representation shall be for a  
250 period of five years, which commences at the time relief is  
251 granted after the highest court having jurisdiction to review  
252 the deficient representation determination has issued its final  
253 order affirming the second such determination.

254 Section 12. Section 27.7081, Florida Statutes, is amended  
255 to read:

256 (Substantial rewording of section. See  
257 s. 27.7081, F.S., for present text.)

258 27.7081 Capital postconviction public records production.-

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

260 (a) "Agency" has the same meaning as provided in s.  
261 119.011.

262 (b) "Collateral counsel" means a capital collateral  
263 regional counsel from one of the three regions in Florida, a  
264 private attorney who has been appointed to represent a capital  
265 defendant for postconviction litigation, or a private attorney  
266 who has been hired by the capital defendant or who has agreed to  
267 work pro bono for a capital defendant for postconviction  
268 litigation.

269 (c) "Public records" has the same meaning as provided in s.  
270 119.011.

271 (d) "Trial court" means:

272 1. The judge who entered the judgment and imposed the  
273 sentence of death; or



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274 2. If a motion for postconviction relief in a capital case  
275 has been filed and a different judge has already been assigned  
276 to that motion, the judge who is assigned to rule on that  
277 motion.

278 (2) APPLICABILITY AND SCOPE.—This section only applies to  
279 the production of public records for capital postconviction  
280 defendants and does not change or alter the time periods  
281 specified in Rule 3.851, Florida Rules of Criminal Procedure.  
282 Furthermore, this section does not affect, expand, or limit the  
283 production of public records for any purpose other than use in a  
284 proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida  
285 Rules of Criminal Procedure. This section shall not be a basis  
286 for renewing public records requests that have been initiated  
287 previously or for relitigating issues pertaining to production  
288 of public records upon which a court has ruled before July 1,  
289 2013. Public records requests made in postconviction proceedings  
290 in capital cases in which the conviction and sentence of death  
291 have been affirmed on direct appeal before July 1, 2013, shall  
292 be governed by the rules and laws in effect immediately before  
293 July 1, 2013.

294 (3) RECORDS REPOSITORY.—The Secretary of State shall  
295 establish and maintain a records repository to archive capital  
296 postconviction public records as provided for in this section.

297 (4) FILING AND SERVICE.—

298 (a) The original of all notices, requests, or objections  
299 filed under this section must be filed with the clerk of the  
300 trial court. Copies must be served on the trial court, the  
301 attorney general, the state attorney, collateral counsel, and  
302 any affected person or agency, unless otherwise required by this



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303 section.

304 (b) Service shall be made pursuant to Rule 3.030, Florida  
305 Rules of Criminal Procedure.

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

309 (d) Persons and agencies receiving postconviction public  
310 records notifications or requests pursuant to this section are  
311 not required to furnish records filed in a trial court before  
312 the receipt of the notice.

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

314 (a) Within 15 days after receiving written notification of  
315 the Florida Supreme Court's mandate affirming the sentence of  
316 death, the attorney general shall file with the trial court a  
317 written notice of the mandate and serve a copy of the notice  
318 upon the state attorney who prosecuted the case, the Department  
319 of Corrections, and the defendant's trial counsel. The notice to  
320 the state attorney shall direct the state attorney to submit  
321 public records to the records repository within 90 days after  
322 receipt of written notification and to notify each law  
323 enforcement agency involved in the investigation of the capital  
324 offense to submit public records to the records repository  
325 within 90 days after receipt of written notification. The notice  
326 to the Department of Corrections shall direct the department to  
327 submit public records to the records repository within 90 days  
328 after receipt of written notification.

329 (b) Within 90 days after receiving written notification of  
330 issuance of the Florida Supreme Court's mandate affirming a  
331 death sentence, the state attorney shall provide written



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332 notification to the attorney general of the name and address of  
333 an additional person or agency that has public records pertinent  
334 to the case.

335 (c) Within 90 days after receiving written notification of  
336 issuance of the Florida Supreme Court's mandate affirming a  
337 death sentence, the defendant's trial counsel shall provide  
338 written notification to the attorney general of the name and  
339 address of a person or agency with information pertinent to the  
340 case which has not previously been provided to collateral  
341 counsel.

342 (d) Within 15 days after receiving written notification of  
343 any additional person or agency pursuant to paragraph (b) or  
344 paragraph (c), the attorney general shall notify all persons or  
345 agencies identified pursuant to paragraph (b) or paragraph (c)  
346 that these persons or agencies are required by law to copy,  
347 index, and deliver to the records repository all public records  
348 pertaining to the case that are in their possession. The person  
349 or agency shall bear the costs related to copying, indexing, and  
350 delivering the records.

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

352 (a) Within 15 days after receipt of a written notice of the  
353 mandate from the attorney general, the state attorney shall  
354 provide written notification to each law enforcement agency  
355 involved in the specific case to submit public records to the  
356 records repository within 90 days after receipt of written  
357 notification. A copy of the notice shall be served upon the  
358 defendant's trial counsel.

359 (b) Within 90 days after receipt of a written notice of the  
360 mandate from the attorney general, the state attorney shall



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361 copy, index, and deliver to the records repository all public  
362 records that were produced in the state attorney's investigation  
363 or prosecution of the case. The state attorney shall bear the  
364 costs. The state attorney shall also provide written  
365 notification to the attorney general of compliance with this  
366 section, including certifying that, to the best of the state  
367 attorney's knowledge or belief, all public records in the state  
368 attorney's possession have been copied, indexed, and delivered  
369 to the records repository as required by this section.

370 (c) Within 90 days after receipt of written notification of  
371 the mandate from the attorney general, the Department of  
372 Corrections shall, at its own expense, copy, index, and deliver  
373 to the records repository all public records determined by the  
374 department to be relevant to the subject matter of a proceeding  
375 under Rule 3.851, Florida Rules of Criminal Procedure, unless  
376 such copying, indexing, and delivering would be unduly  
377 burdensome. The secretary of the department shall provide  
378 written notification to the attorney general of compliance with  
379 this paragraph certifying that, to the best of the secretary of  
380 the department's knowledge or belief, all such public records in  
381 the possession of the secretary of the department have been  
382 copied, indexed, and delivered to the records repository.

383 (d) Within 90 days after receipt of written notification of  
384 the mandate from the state attorney, a law enforcement agency  
385 shall, at its own expense, copy, index, and deliver to the  
386 records repository all public records that were produced in the  
387 investigation or prosecution of the case. The chief law  
388 enforcement officer of each law enforcement agency shall provide  
389 written notification to the attorney general of compliance with



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390 this paragraph including certifying that, to the best of the  
391 chief law enforcement officer's knowledge or belief, all such  
392 public records in possession of the agency or in possession of  
393 an employee of the agency, have been copied, indexed, and  
394 delivered to the records repository.

395 (e) Within 90 days after receipt of written notification of  
396 the mandate from the attorney general, each additional person or  
397 agency identified pursuant to paragraph (5)(b) or paragraph  
398 (5)(c) shall copy, index, and deliver to the records repository  
399 all public records which were produced during the prosecution of  
400 the case. The person or agency shall bear the costs. The person  
401 or agency shall provide written notification to the attorney  
402 general of compliance with this subdivision and shall certify,  
403 to the best of the person or agency's knowledge and belief, all  
404 such public records in the possession of the person or agency  
405 have been copied, indexed, and delivered to the records  
406 repository.

407 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.-

408 (a) Public records delivered to the records repository  
409 pursuant to this section that are confidential or exempt from  
410 the requirements of s. 119.07(1) or article I, section 24(a), of  
411 the Constitution, must be separately contained, without being  
412 redacted, and sealed. The outside of the container must clearly  
413 identify that the public record is confidential or exempt and  
414 that the seal may not be broken without an order of the trial  
415 court. The outside of the container must identify the nature of  
416 the public records and the legal basis for the exemption.

417 (b) Upon the entry of an appropriate court order, sealed  
418 containers subject to an inspection by the trial court shall be



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419 shipped to the clerk of court. The containers may be opened only  
420 for inspection by the trial court. The moving party shall bear  
421 all costs associated with the transportation and inspection of  
422 such records by the trial court.

423 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.—

424 (a) Within 240 days after collateral counsel is appointed,  
425 retained, or appears pro bono, such counsel shall send a written  
426 demand for additional public records to each person or agency  
427 submitting public records or identified as having information  
428 pertinent to the case under subsection (5).

429 (b) Within 90 days after receipt of the written demand,  
430 each person or agency notified under this subsection shall  
431 deliver to the records repository additional public records in  
432 the possession of the person or agency that pertain to the case  
433 and shall certify to the best of the person or agency's  
434 knowledge and belief that all additional public records have  
435 been delivered to the records repository or, if no additional  
436 public records are found, shall recertify that the public  
437 records previously delivered are complete.

438 (c) Within 60 days after receipt of the written demand, a  
439 person or agency may file with the trial court an objection to  
440 the written demand described in paragraph (a). The trial court  
441 may order a person or agency to produce additional public  
442 records if the court determines that:

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

445 2. Collateral counsel's written demand identifies, with  
446 specificity, those additional public records that are not at the  
447 records repository.



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448           3. The additional public records sought are relevant to the  
449 subject matter of a postconviction proceeding under Rule 3.851,  
450 Florida Rules of Criminal Procedure, or appear reasonably  
451 calculated to lead to the discovery of admissible evidence.

452           4. The additional public records request is not overly  
453 broad or unduly burdensome.

454           (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL  
455 RECORDS.—

456           (a) In order to obtain public records in addition to those  
457 provided under subsections (6), (7), and (8), collateral counsel  
458 must file an affidavit in the trial court which:

459           1. Attests that collateral counsel has made a timely and  
460 diligent search of the records repository.

461           2. Identifies with specificity those public records not at  
462 the records repository.

463           3. Establishes that the additional public records are  
464 either relevant to the subject matter of the postconviction  
465 proceeding or are reasonably calculated to lead to the discovery  
466 of admissible evidence.

467           4. Must be served in accordance with subsection (4).

468           (b) The trial court may order a person or agency to produce  
469 additional public records only upon finding that:

470           1. Collateral counsel has made a timely and diligent search  
471 of the records repository.

472           2. Collateral counsel's affidavit identifies with  
473 specificity those additional public records that are not at the  
474 records repository.

475           3. The additional public records sought are either relevant  
476 to the subject matter of a capital postconviction proceeding or



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477 appear reasonably calculated to lead to the discovery of  
478 admissible evidence.

479 4. The additional records request is not overly broad or  
480 unduly burdensome.

481 (10) COPYING RECORDS.— The Secretary of State shall provide  
482 the personnel, supplies, and any necessary equipment to copy  
483 records held at the records repository.

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

486 (a) Compel or deny disclosure of records.

487 (b) Conduct an inspection in camera.

488 (c) Extend the time periods in this section upon a showing  
489 of good cause.

490 (d) Impose sanctions upon a party, person, or agency  
491 affected by this section, including initiating contempt  
492 proceedings, taxing expenses, extending time periods, ordering  
493 facts to be established, and granting other relief.

494 (e) Resolve a dispute arising under this section unless  
495 jurisdiction is in an appellate court.

496 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION  
497 ISSUES.—

498 (a) Unless otherwise limited, the scope of production under  
499 any part of this section shall be that the public records sought  
500 are not privileged or immune from production and are either  
501 relevant to the subject matter of a postconviction proceeding  
502 under Rule 3.851, Florida Rules of Criminal Procedure, or are  
503 reasonably calculated to lead to the discovery of admissible  
504 evidence.

505 (b) Counsel for a party objecting or moving to compel



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506 production of public records pursuant to this section must file  
507 a copy of the objection or motion directly with the trial court.

508 (c) The trial court may order mediation for a controversy  
509 as to public records production pursuant to this section in  
510 accord with Rules 1.700, 1.710, 1.720, and 1.730, Florida Rules  
511 of Civil Procedure, or the trial court may refer such  
512 controversy to a magistrate in accord with Rule 1.490, Florida  
513 Rules of Civil Procedure.

514 (13) DESTRUCTION OF RECORDS.—Sixty days after a capital  
515 sentence is carried out, after a defendant is released from  
516 incarceration after the granting of a pardon or reversal of the  
517 sentence, or after a defendant has been resentenced to a term of  
518 years, the attorney general shall provide written notification  
519 of this occurrence to the Secretary of State. After the  
520 expiration of the 60 days, the Secretary of State may destroy  
521 the copies of the records held by the records repository that  
522 pertain to that case, unless an objection to the destruction is  
523 filed in the trial court and served upon the Secretary of State.  
524 If no objection is served within the 60-day period, the records  
525 may then be destroyed. If an objection is served, the records  
526 shall not be destroyed until a final disposition of the  
527 objection.

528 Section 13. Subsections (1), (2), (3), and (4) of section  
529 27.710, Florida Statutes, are amended to read:

530 27.710 Registry of attorneys applying to represent persons  
531 in postconviction capital collateral proceedings; certification  
532 of minimum requirements; appointment by trial court.—

533 (1) The executive director of the Justice Administrative  
534 Commission shall compile and maintain a statewide registry of



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535 attorneys in private practice who have certified that they meet  
536 the minimum requirements of s. 27.704(2), who have participated  
537 in at least two capital trials or two capital sentencing  
538 proceedings, who are available for appointment by the court  
539 under this section to represent persons convicted and sentenced  
540 to death in this state in postconviction collateral proceedings,  
541 and who have attended within the last year a continuing legal  
542 education program of at least 10 hours' duration devoted  
543 specifically to the defense of capital cases, if available.  
544 Continuing legal education programs meeting the requirements of  
545 this rule offered by The Florida Bar or another recognized  
546 provider and approved for continuing legal education credit by  
547 The Florida Bar shall satisfy this requirement. The failure to  
548 comply with this requirement may be cause for removal from the  
549 list until the requirement is fulfilled. To ensure that  
550 sufficient attorneys are available for appointment by the court,  
551 when the number of attorneys on the registry falls below 50, the  
552 executive director shall notify the chief judge of each circuit  
553 by letter and request the chief judge to promptly submit the  
554 names of at least three private attorneys who regularly practice  
555 criminal law in that circuit and who appear to meet the minimum  
556 requirements to represent persons in postconviction capital  
557 collateral proceedings. The executive director shall send an  
558 application to each attorney identified by the chief judge so  
559 that the attorney may register for appointment as counsel in  
560 postconviction capital collateral proceedings. As necessary, the  
561 executive director may also advertise in legal publications and  
562 other appropriate media for qualified attorneys interested in  
563 registering for appointment as counsel in postconviction capital



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564 collateral proceedings. Not later than September 1 of each year,  
565 and as necessary thereafter, the executive director shall  
566 provide to the Chief Justice of the Supreme Court, the chief  
567 judge and state attorney in each judicial circuit, and the  
568 Attorney General a current copy of its registry of attorneys who  
569 are available for appointment as counsel in postconviction  
570 capital collateral proceedings. The registry must be indexed by  
571 judicial circuit and must contain the requisite information  
572 submitted by the applicants in accordance with this section.

573 (2) To be eligible for court appointment as counsel in  
574 postconviction capital collateral proceedings, an attorney must  
575 certify on an application provided by the executive director  
576 that he or she satisfies the minimum requirements for private  
577 counsel set forth in s. 27.704(2) and that he or she has  
578 participated in at least two capital trials or two capital  
579 sentencing proceedings.

580 (3) An attorney who applies for registration and court  
581 appointment as counsel in postconviction capital collateral  
582 proceedings must certify that he or she is counsel of record in  
583 not more than nine ~~four~~ such proceedings and, if appointed to  
584 represent a person in postconviction capital collateral  
585 proceedings, shall continue such representation under the terms  
586 and conditions set forth in s. 27.711 until the sentence is  
587 reversed, reduced, or carried out or unless permitted to  
588 withdraw from representation by the trial court. The court may  
589 not permit an attorney to withdraw from representation without a  
590 finding of sufficient good cause. The court may impose  
591 appropriate sanctions if it finds that an attorney has shown bad  
592 faith with respect to continuing to represent a defendant in a



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593 postconviction capital collateral proceeding. This section does  
594 not preclude the court from reassigning a case to a capital  
595 collateral regional counsel following discontinuation of  
596 representation if a conflict of interest no longer exists with  
597 respect to the case.

598 (4) Each private attorney who is appointed by the court to  
599 represent a capital defendant must enter into a contract with  
600 the Justice Administrative Commission ~~Chief Financial Officer~~.  
601 If the appointed attorney fails to execute the contract within  
602 30 days after the date the contract is mailed to the attorney,  
603 the executive director shall notify the trial court. The Justice  
604 Administrative Commission ~~Chief Financial Officer~~ shall ~~develop~~  
605 ~~the form of the contract,~~ function as contract manager, and  
606 enforce performance of the terms and conditions of the contract.  
607 The Justice Administrative Commission shall approve uniform  
608 contract forms for use in procuring the services of private  
609 court-appointed counsel and uniform procedures and forms for use  
610 by a court-appointed attorney in support of billing for attorney  
611 fees, costs, and related expenses to demonstrate attorney  
612 completion of specified duties. By signing such contract, the  
613 attorney certifies that he or she intends to continue the  
614 representation under the terms and conditions set forth in the  
615 contract until the sentence is reversed, reduced, or carried out  
616 or until released by order of the trial court.

617 Section 14. Subsections (3), (4), (5), (6), (7), (9), (12),  
618 (13), and (14) of section 27.711, Florida Statutes, are amended  
619 to read:

620 27.711 Terms and conditions of appointment of attorneys as  
621 counsel in postconviction capital collateral proceedings.-



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622           (3) An attorney appointed to represent a capital defendant  
623 is entitled to payment of the fees set forth in this section  
624 only upon full performance by the attorney of the duties  
625 specified in this section and approval of payment by the trial  
626 court, and the submission of a payment request by the attorney,  
627 subject to the availability of sufficient funding specifically  
628 appropriated for this purpose. ~~An attorney may not be~~  
629 ~~compensated under this section for work performed by the~~  
630 ~~attorney before July 1, 2003, while employed by the northern~~  
631 ~~regional office of the capital collateral counsel.~~ The Justice  
632 Administrative Commission Chief Financial Officer shall notify  
633 ~~the executive director~~ and the court if it appears that  
634 sufficient funding has not been specifically appropriated for  
635 this purpose to pay any fees which may be incurred. The attorney  
636 shall maintain appropriate documentation, including a current  
637 and detailed hourly accounting of time spent representing the  
638 capital defendant. The fee and payment schedule in this section  
639 is the exclusive means of compensating a court-appointed  
640 attorney who represents a capital defendant. When appropriate, a  
641 court-appointed attorney must seek further compensation from the  
642 Federal Government, as provided in 18 U.S.C. s. 3006A or other  
643 federal law, in habeas corpus litigation in the federal courts.

644           (4) Upon approval by the trial court, an attorney appointed  
645 to represent a capital defendant under s. 27.710 is entitled to  
646 payment of the following fees by the Justice Administrative  
647 Commission Chief Financial Officer:

648           (a) Regardless of the stage of postconviction capital  
649 collateral proceedings, the attorney is entitled to \$100 per  
650 hour, up to a maximum of \$2,500, after accepting appointment and



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651 filing a notice of appearance.

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

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

661 (c) The attorney is entitled to \$100 per hour, up to a  
662 maximum of \$20,000, after the trial court issues a final order  
663 granting or denying the capital defendant's motion for  
664 postconviction relief.

665 (d) The attorney is entitled to \$100 per hour, up to a  
666 maximum of \$20,000, after timely filing in the Supreme Court the  
667 capital defendant's brief or briefs that address the trial  
668 court's final order granting or denying the capital defendant's  
669 motion for postconviction relief and the state petition for writ  
670 of habeas corpus.

671 (e) The attorney is entitled to \$100 per hour, up to a  
672 maximum of \$10,000, after the trial court issues an order,  
673 pursuant to a remand from the Supreme Court, which directs the  
674 trial court to hold further proceedings on the capital  
675 defendant's motion for postconviction relief.

676 (f) The attorney is entitled to \$100 per hour, up to a  
677 maximum of \$4,000, after the appeal of the trial court's denial  
678 of the capital defendant's motion for postconviction relief and  
679 the capital defendant's state petition for writ of habeas corpus



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680 become final in the Supreme Court.

681 (g) At the conclusion of the capital defendant's  
682 postconviction capital collateral proceedings in state court,  
683 the attorney is entitled to \$100 per hour, up to a maximum of  
684 \$2,500, after filing a petition for writ of certiorari in the  
685 Supreme Court of the United States.

686 (h) If, at any time, a death warrant is issued, the  
687 attorney is entitled to \$100 per hour, up to a maximum of  
688 \$5,000. This payment shall be full compensation for attorney's  
689 fees and costs for representing the capital defendant throughout  
690 the proceedings before the state courts of Florida.

691  
692 The hours billed by a contracting attorney under this subsection  
693 may include time devoted to representation of the defendant by  
694 another attorney who is qualified under s. 27.710 and who has  
695 been designated by the contracting attorney to assist him or  
696 her.

697 (5) An attorney who represents a capital defendant may use  
698 the services of one or more investigators to assist in  
699 representing a capital defendant. Upon approval by the trial  
700 court, the attorney is entitled to payment from the Justice  
701 Administrative Commission ~~Chief Financial Officer~~ of \$40 per  
702 hour, up to a maximum of \$15,000, for the purpose of paying for  
703 investigative services.

704 (6) An attorney who represents a capital defendant is  
705 entitled to a maximum of \$15,000 for miscellaneous expenses,  
706 such as the costs of preparing transcripts, compensating expert  
707 witnesses, and copying documents. Upon approval by the trial  
708 court, the attorney is entitled to payment by the Justice



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709 Administrative Commission ~~Chief Financial Officer~~ of up to  
710 \$15,000 for miscellaneous expenses, except that, if the trial  
711 court finds that extraordinary circumstances exist, the attorney  
712 is entitled to payment in excess of \$15,000.

713 (7) An attorney who is actively representing a capital  
714 defendant is entitled to a maximum of \$500 per fiscal year for  
715 tuition and expenses for continuing legal education that  
716 pertains to the representation of capital defendants. Upon  
717 approval by the trial court, the attorney is entitled to payment  
718 by the Justice Administrative Commission ~~Chief Financial Officer~~  
719 for expenses for such tuition and continuing legal education.

720 (9) An attorney may not represent more than ten ~~five~~  
721 defendants in capital postconviction litigation at any one time.

722 (12) The court shall monitor the performance of assigned  
723 counsel to ensure that the capital defendant is receiving  
724 quality representation. The court shall also receive and  
725 evaluate allegations that are made regarding the performance of  
726 assigned counsel. The Justice Administrative Commission ~~Chief~~  
727 ~~Financial Officer~~, the Department of Legal Affairs, ~~the~~  
728 ~~executive director~~, or any interested person may advise the  
729 court of any circumstance that could affect the quality of  
730 representation, including, but not limited to, false or  
731 fraudulent billing, misconduct, failure to meet continuing legal  
732 education requirements, solicitation to receive compensation  
733 from the capital defendant, or failure to file appropriate  
734 motions in a timely manner.

735 (13) Prior to the filing of a motion for order approving  
736 payment of attorney's fees, costs, or related expenses, the  
737 assigned counsel shall deliver a copy of his intended billing,



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738 together with supporting affidavits and all other necessary  
739 documentation, to the Justice Administrative Commission Chief  
740 ~~Financial Officer's~~ named contract manager. The Justice  
741 Administrative Commission shall review the intended billing  
742 ~~contract manager shall have 10 business days from receipt to~~  
743 ~~review the billings, affidavit, and documentation for~~  
744 completeness and compliance with contractual and statutory  
745 requirements. If the Justice Administrative Commission ~~contract~~  
746 ~~manager~~ objects to any portion of the proposed billing, the  
747 objection and reasons therefor shall be communicated to the  
748 assigned counsel. The assigned counsel may thereafter file his  
749 or her motion for order approving payment of attorney's fees,  
750 costs, or related expenses together with supporting affidavits  
751 and all other necessary documentation. The motion must specify  
752 whether the Justice Administrative Commission ~~Chief Financial~~  
753 ~~Officer's contract manager~~ objects to any portion of the billing  
754 or the sufficiency of documentation and, if so, the reason  
755 therefor. A copy of the motions and attachments shall be served  
756 on the Justice Administrative Commission at least 5 business  
757 days before the date of a hearing. The Justice Administrative  
758 Commission has standing to appear before the court to contest  
759 any motion for an order approving payment of attorney fees,  
760 costs, or related expenses and may participate in a hearing on  
761 the motion by use of telephonic or other communication  
762 equipment. ~~A copy of the motion and attachments shall be served~~  
763 ~~on the Chief Financial Officer's contract manager, who shall~~  
764 ~~have standing to file pleadings and appear before the court to~~  
765 ~~contest any motion for order approving payment.~~ The fact that  
766 the Justice Administrative Commission ~~Chief Financial Officer's~~



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767 ~~contract manager~~ has not objected to any portion of the billing  
768 or to the sufficiency of the documentation is not binding on the  
769 court, which retains primary authority and responsibility for  
770 determining the reasonableness of all billings for fees, costs,  
771 and related expenses, subject to statutory limitations.

772 ~~(14) Each attorney participating in the pilot program in~~  
773 ~~the northern region pursuant to s. 27.701(2), as a condition of~~  
774 ~~payment pursuant to this section, shall report on the~~  
775 ~~performance measures adopted by the Legislature for the capital~~  
776 ~~collateral regional counsel.~~

777 Section 15. Section 922.095, Florida Statutes, is amended  
778 to read:

779 922.095 Grounds for death warrant; limitations of actions.-  
780 A person who is convicted and sentenced to death must pursue all  
781 possible collateral remedies in state court in accordance with  
782 the Florida Rules of Criminal Procedure ~~within the time limits~~  
783 ~~provided by statute. Failure to seek relief within the statutory~~  
784 ~~time limits constitutes grounds for issuance of a death warrant~~  
785 ~~under s. 922.052 or s. 922.14. Any claim not pursued within the~~  
786 ~~statutory time limits is barred. No claim filed after the time~~  
787 ~~required by law shall be grounds for a judicial stay of any~~  
788 ~~warrant.~~

789 Section 16. Section 922.052, Florida Statutes, is amended  
790 to read:

791 922.052 Issuance of warrant of execution.-

792 (1) When a person is sentenced to death, the clerk of the  
793 court shall prepare a certified copy of the record of the  
794 conviction and sentence, and the sheriff shall send the record  
795 to the Governor and the clerk of the Florida Supreme Court. The



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796 sentence shall not be executed until the Governor, or the  
797 Secretary of the Department of Corrections pursuant to s.  
798 922.14, issues a warrant, attaches it to the copy of the record,  
799 and transmits it to the warden, directing the warden to execute  
800 the sentence at a time designated in the warrant.

801 (2) If, for any reason, the sentence is not executed during  
802 the week designated, the warrant shall remain in full force and  
803 effect and the sentence shall be carried out as provided in s.  
804 922.06.

805 Section 17. Subsection (1) of section 922.11, Florida  
806 Statutes, is amended to read:

807 922.11 Regulation of execution.—

808 (1) The warden of the state prison or a deputy designated  
809 by him or her shall be present at the execution. The warden  
810 shall set the day for execution within the week designated ~~by~~  
811 ~~the Governor~~ in the warrant.

812 Section 18. Section 922.14, Florida Statutes, is amended to  
813 read:

814 922.14 Issuance of warrant of execution ~~Sentence of death~~  
815 ~~unexecuted for unjustifiable reasons.~~—

816 (1) (a) The clerk of the Florida Supreme Court shall send a  
817 letter to the Secretary of the Department of Corrections  
818 certifying that a person convicted and sentenced to death,  
819 before or after the effective date of this act, has:

820 1. Completed such person's direct appeal and initial  
821 postconviction proceeding in state court, and habeas corpus  
822 proceeding and appeal therefrom in federal court; or

823 2. Allowed the time permitted for filing an initial  
824 postconviction motion in state court, and habeas corpus petition



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825 in federal court to expire.

826 (b) Upon receiving the letter of certification from the  
827 clerk of the Florida Supreme Court, the Secretary of the  
828 Department of Corrections shall immediately issue a warrant for  
829 execution, directing the warden to execute the sentence within  
830 180 days, at a time designated in the warrant. The Secretary may  
831 not issue more than three warrants in any 90-day period,  
832 regardless of how many letters of certification he or she  
833 receives. If in any 90-day period the Secretary receives more  
834 than three letters of certification, the Secretary shall issue  
835 warrants on the three persons who were sentenced to death  
836 earliest.

837 (2) If a death sentence is not executed because of  
838 unjustified failure of the the Secretary of the Department of  
839 Corrections or the Governor to issue a warrant, or for any other  
840 unjustifiable reason, on application of the Department of Legal  
841 Affairs, the Supreme Court shall issue a warrant directing the  
842 sentence to be executed during a week designated in the warrant.

843 Section 19. Section 924.055, Florida Statutes, is amended  
844 to read:

845 924.055 Postconviction review in capital cases; legislative  
846 findings and intent.—

847 (1) It is the intent of the Legislature to reduce delays in  
848 capital cases and to ensure that all appeals and postconviction  
849 actions in capital cases are resolved as soon as possible ~~within~~  
850 ~~5 years~~ after the date a sentence of death is imposed in the  
851 circuit court. ~~All capital postconviction actions must be filed~~  
852 ~~as early as possible after the imposition of a sentence of death~~  
853 ~~which may be during a direct appeal of the conviction and~~



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854 ~~sentence.~~ A person sentenced to death or that person's capital  
855 postconviction counsel must file any postconviction legal action  
856 in compliance with the Florida Rules of Criminal Procedure  
857 ~~statutes of limitation established in s. 924.056 and elsewhere~~  
858 ~~in this chapter. Except as expressly allowed by s. 924.056(5), a~~  
859 ~~person sentenced to death or that person's capital~~  
860 ~~postconviction counsel may not file more than one postconviction~~  
861 ~~action in a sentencing court and one appeal therefrom to the~~  
862 ~~Florida Supreme Court, unless authorized by law.~~

863 ~~(2) It is the further intent of the Legislature that no~~  
864 ~~state resources be expended in violation of this act. In the~~  
865 ~~event that any state employee or party contracting with the~~  
866 ~~state violates the provisions of this act, the Attorney General~~  
867 ~~shall deliver to the Speaker of the House of Representatives and~~  
868 ~~the President of the Senate a copy of any court pleading or~~  
869 ~~order that describes or adjudicates a violation.~~

870 Section 20. Section 924.056, Florida Statutes, is amended  
871 to read:

872 (Substantial rewording of section. See  
873 s. 924.056, F.S., for present text.)

874 924.056 Capital postconviction proceedings; reporting  
875 requirements.-

876 (1) The Florida Supreme Court shall annually report to the  
877 Speaker of the House of Representatives and the President of the  
878 Senate the status of each capital case in which a postconviction  
879 action has been filed that has been continuously pending for  
880 more than 3 years. The report must include the name of the state  
881 court judge involved in the case.

882 (2) In a capital postconviction proceeding in which it has



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883 been determined that an attorney of record provided  
884 constitutionally deficient representation and relief has been  
885 granted as a result of such determination, after the highest  
886 court having jurisdiction to review such determination has  
887 issued its final order affirming the determination, the court  
888 making such determination shall furnish a copy of the findings  
889 to The Florida Bar for appropriate disciplinary action.

890 Section 21. Section 924.057, Florida Statutes, is amended  
891 to read:

892 (Substantial rewording of section. See  
893 s. 924.057, F.S., for present text.)

894 924.057 Capital postconviction proceedings; legislative  
895 intent.—The legislature acknowledges the past efforts made by  
896 the judicial branch in establishing rules of criminal procedure  
897 that make the capital postconviction process fair and more  
898 efficient. The legislature also recognizes and commends the  
899 judicial branch for continuing these efforts by issuing  
900 Administrative Order AOSC13-11, which creates a Capital  
901 Postconviction Proceedings Subcommittee of the Criminal Court  
902 Steering Committee, and directs the Subcommittee to undertake a  
903 comprehensive review of capital postconviction proceedings, and  
904 to make recommendations to the Florida Supreme Court whether  
905 court rules should be amended to improve the overall efficiency  
906 of the capital postconviction process. In support of these  
907 efforts, the legislature expresses its intent that capital  
908 postconviction proceedings be conducted in accordance with court  
909 rules, and that courts strictly adhere to the timeframes and  
910 postconviction motion content requirements established therein.

911 Section 22. Sections 924.058, 924.059, and 924.395, Florida



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912 Statutes, are repealed.

913 Section 23. If any provision of this act or the application  
914 thereof to any person or circumstance is held invalid, the  
915 invalidity does not affect other provisions or applications of  
916 the act which can be given effect without the invalid provision  
917 or application, and to this end the provisions of this act are  
918 declared severable.

919 Section 24. Effective July 1, 2013, four full-time  
920 equivalent positions with associated salary and rate of 220,000  
921 are authorized and \$417,338 in recurring funds from the General  
922 Revenue Fund and \$14,832 in nonrecurring general revenue is  
923 appropriated to the Justice Administration Commission for the  
924 creation of the northern region office of the Capital Collateral  
925 Regional Counsel as provided in this act.

926 Section 25. This act shall take effect July 1, 2013.

927

928 ===== T I T L E A M E N D M E N T =====

929 And the title is amended as follows:

930 Delete everything before the enacting clause  
931 and insert:

932 A bill to be entitled

933 An act relating to the death penalty; providing a  
934 short title; amending s. 27.40, F.S.; requiring the  
935 court to appoint the capital collateral regional  
936 counsel to represent persons convicted and sentenced  
937 to death in clemency proceedings; amending s. 27.51,  
938 F.S.; removing the court's authority to appoint a  
939 public defender to represent a person convicted and  
940 sentenced to death in clemency proceedings; amending



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941 s. 27.511, F.S., removing the court's authority to  
942 appoint the office of criminal conflict and civil  
943 regional counsel to represent a person convicted and  
944 sentenced to death in clemency proceedings; amending  
945 s. 27.5303, F.S., removing the court's authority to  
946 appoint a public defender to represent an indigent  
947 person convicted and sentenced to death in clemency  
948 proceedings; amending s. 27.5304, F.S.; requiring  
949 funds used to compensate court-appointed attorneys who  
950 represent a person convicted and sentenced to death in  
951 clemency proceedings to be paid by the Justice  
952 Administrative Commission rather than the Department  
953 of Corrections; amending s. 27.7001, F.S.; removing  
954 legislative intent language indicating that collateral  
955 representation of persons convicted and sentenced to  
956 death should not include representation during  
957 clemency proceedings; repealing s. 27.701(2), F.S.,  
958 relating to a pilot project using registry attorneys  
959 to provide capital collateral counsel services in the  
960 northern region of the Capital Collateral Regional  
961 Counsel; amending s. 27.702, F.S., authorizing the  
962 capital collateral regional counsel to represent  
963 persons convicted and sentenced to death in clemency  
964 proceedings; removing language requiring the capital  
965 collateral regional counsel to only file  
966 postconviction actions authorized by statute; amending  
967 s. 27.703, F.S.; prohibiting the capital collateral  
968 regional counsel and replacement regional counsel from  
969 accepting an appointment or taking an action that



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970 creates an actual conflict of interest; describing  
971 actual conflict of interest; amending s. 27.7045,  
972 F.S.; prohibiting an attorney from representing a  
973 person charged with a capital offense in specified  
974 proceedings for five years if in two separate  
975 instances a court, in a capital postconviction  
976 proceeding, determined that the attorney provided  
977 constitutionally deficient representation and relief  
978 was granted; amending s. 27.7081, F.S.; providing  
979 definitions; establishing procedures for public  
980 records production in postconviction capital cases  
981 proceedings; amending s. 27.710, F.S.; requiring  
982 private registry attorneys appointed by the court to  
983 represent persons in postconviction capital  
984 proceedings to meet certain criteria; requiring  
985 private registry attorneys appointed by the court to  
986 represent persons in postconviction capital  
987 proceedings to contract with the Justice  
988 Administrative Commission rather than the Chief  
989 Financial Officer; specifying that the Justice  
990 Administrative Commission is the contract manager and  
991 requiring the Justice Administrative Commission to  
992 approve uniform contract forms and procedures;  
993 amending s. 27.711, F.S.; replacing references to the  
994 "Chief Financial Officer" with "Justice Administrative  
995 Commission" for purposes of paying private registry  
996 attorneys appointed by the court to represent persons  
997 in postconviction capital proceedings; permitting  
998 private registry attorneys appointed by the court to



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999 represent persons in postconviction capital  
1000 proceedings to represent no more than ten, rather than  
1001 five, defendants in capital postconviction litigation  
1002 at any one time; amending s. 922.095, F.S.; requiring  
1003 persons convicted and sentenced to death to pursue all  
1004 possible collateral remedies in state court in  
1005 accordance with the Florida Rules of Criminal  
1006 Procedure rather than in accordance with statute;  
1007 amending s. 922.052, F.S.; requiring the sheriff to  
1008 send the record of a person's conviction and death  
1009 sentence to the clerk of the Florida Supreme Court;  
1010 specifying that a sentence shall not be executed until  
1011 the Governor or Secretary of the Department of  
1012 Corrections issues a warrant; amending s. 922.11,  
1013 F.S.; requiring the warden to set the day for  
1014 execution within the week designated in the warrant;  
1015 amending s. 922.14, F.S.; requiring the clerk of the  
1016 Florida Supreme Court to send a letter to the  
1017 Secretary of the Department of Corrections certifying  
1018 that a person convicted and sentenced to death meets  
1019 certain criteria; requiring the Secretary to  
1020 immediately issue a warrant upon receipt of the  
1021 clerk's letter of certification directing the warden  
1022 to execute the sentence within 180 days; prohibiting  
1023 the Secretary from issuing more than three warrants in  
1024 a 90-day period; specifying how the Secretary shall  
1025 select which warrants to issue if he or she receives  
1026 more than three letters of certification within a 90-  
1027 day period; amending s. 924.055, F.S.; removing



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1028       obsolete language requiring capital postconviction  
1029       motions to be filed in accordance with statute;  
1030       requiring capital postconviction motions to be filed  
1031       in accordance with the Florida Rules of Criminal  
1032       Procedure; amending s. 924.056, F.S.; requiring the  
1033       Florida Supreme Court to annually report certain  
1034       information regarding capital postconviction cases to  
1035       the Legislature; requiring courts to report specified  
1036       findings of ineffective assistance of counsel to The  
1037       Florida Bar; amending s. 924.057, F.S.; creating  
1038       legislative intent regarding postconviction  
1039       proceedings in capital cases; repealing sections  
1040       924.058, 924.059, and 924.395, F.S.; relating to  
1041       postconviction capital case proceedings; providing for  
1042       severability; providing an appropriation; providing an  
1043       effective date.