

Bill No. CS for SB 1330

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Burt moved the following amendment:

13 **Senate Amendment (with title amendment)**

14 On page 7, line 1, through
15 page 9, line 23, delete those lines

17 and insert:

18 (9)(a) After production of additional public records
19 or recertification as provided in subsection (8), the regional
20 counsel or the private counsel is prohibited from making any
21 further public-records requests under this chapter. An agency
22 is not required to produce additional public records except by
23 court order as provided in this subsection.

24 (b) In order to obtain additional public records
25 beyond those provided under subsection (8), the regional
26 counsel, private counsel, or other counsel who is a member of
27 The Florida Bar and is authorized by the regional counsel or
28 private counsel shall file an affidavit in the trial court
29 which attests that he or she has made a timely and diligent
30 search of the records repository and specifically identifies
31 those additional public records that are not at the repository

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1 and are relevant to the subject matter of a proceeding under
2 Rule 3.850 or Rule 3.851 or are reasonably calculated to lead
3 to the discovery of admissible evidence. The affiant shall
4 provide a copy of the affidavit to all affected agencies upon
5 the filing of such affidavit in the trial court.

6 (c) Within 30 days after the filing of an affidavit,
7 the trial court shall order an agency to produce additional
8 public records only if it finds each of the following:

9 1. The regional counsel or private counsel has made a
10 timely and diligent search as provided in this section.

11 2. The regional or private counsel's affidavit
12 identifies, with specificity, those additional public records
13 that are not at the repository.

14 3. The additional public records sought are relevant
15 to the subject matter of a proceeding under Rule 3.850 or Rule
16 3.851 or appear reasonably calculated to lead to the discovery
17 of admissible evidence.

18 4. The additional public-records request is not
19 overbroad or unduly burdensome.

20 (10) The capital collateral regional counsel or
21 private counsel shall provide the personnel, supplies, and any
22 necessary equipment used by the capital collateral regional
23 counsel or private counsel to copy records held at the records
24 repository.

25 (11) The trial court shall resolve any dispute that
26 arises under this section, unless the appellate court has
27 exclusive jurisdiction.

28 (12) The capital collateral regional counsel or
29 private counsel shall not solicit another person to make a
30 request for public records on behalf of the regional counsel
31 or private counsel. The trial court shall impose appropriate

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1 sanctions against any regional counsel or private counsel
2 found in violation of this subsection.

3 (13) Sixty days after a capital sentence is carried
4 out, 60 days after a defendant is released from incarceration
5 following the granting of a pardon or reversal of the
6 sentence, or 60 days after the defendant has been resentenced
7 to a term of years, the Attorney General shall provide written
8 notification to the Secretary of State, who may then destroy
9 the records held by the records repository which pertain to
10 that case.

11 (14) This section pertains only to the production of
12 records for capital postconviction defendants and does not
13 change or alter any times periods specified in Rule 3.850 or
14 Rule 3.851, Florida Rules of Criminal Procedure. Furthermore,
15 this section does not affect, expand, or limit the production
16 of public records for any purposes other than use in a
17 proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida
18 Rules of Criminal Procedure.

19 Section 2. Subsection (4) of section 27.702, Florida
20 Statutes, is amended to read:

21 27.702 Duties of the capital collateral regional
22 counsel; reports.--

23 (4)(a) The capital collateral regional counsel or
24 private counsel shall give written notification of each
25 pleading filed by that office and the name of the person
26 filing the pleading to the Commission on the Administration of
27 Justice in Capital Cases and to the trial court assigned to
28 the case.

29 (b) Each capital collateral regional counsel shall
30 provide a quarterly report to the President of the Senate, the
31 Speaker of the House of Representatives, and the Commission on

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1 the Administration of Justice in Capital Cases which details
2 the number of hours worked by investigators and legal counsel
3 per case and the amounts per case expended during the
4 preceding quarter in investigating and litigating capital
5 collateral cases.

6 Section 3. Subsections (2) and (3) of section 27.708,
7 Florida Statutes, are amended to read:

8 27.708 Access to prisoners; compliance with the
9 Florida Rules of Criminal Procedure in capital collateral
10 litigation; records requests; approval of records requests.--

11 (2) The capital collateral regional counsel and
12 contracted private counsel must timely comply with all
13 provisions of the Florida Rules of Criminal Procedure
14 governing collateral review of capital cases, ~~including~~
15 ~~provisions pertaining to requests for records under Rule~~
16 ~~3.852, Florida Rules of Criminal Procedure.~~

17 (3) Except as provided in s. 119.19, the capital
18 collateral regional counsel or contracted private counsel
19 shall not make any public-records request on behalf of his or
20 her client.~~All~~

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

24 And the title is amended as follows:

25 On page 2, lines 2-4, delete those lines

26

27 and insert:

28 production of records; prohibiting the capital
29 collateral regional counsel or private counsel
30 from soliciting another person to make a
31 request for public records on the counsel's

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1 behalf; providing for sanctions; specifying
2 circumstances under which the Secretary of
3 State may destroy records held by a repository;
4 clarifying the application of provisions
5 governing the production of records in capital
6 postconviction proceedings; amending s.
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