

Bill No. CS for CS for SB 2054

Amendment No. 1

|    | <u>Senate</u>   | CHAMBER ACTION | <u>House</u> |
|----|---|----------------|--------------|
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| 11 | The Committee on Fiscal Policy recommended the following                  |                |              |
| 12 | amendment:  |                |              |
| 13 |   |                |              |
| 14 | <b>Senate Amendment (with title amendment)</b>                            |                |              |
| 15 | On page 2, line 1, through page 3, line 18, delete                        |                |              |
| 16 | those lines   |                |              |
| 17 |   |                |              |
| 18 | and insert:   |                |              |
| 19 | Section 1. Subsection (4) of section 27.702, Florida                      |                |              |
| 20 | Statutes, 1998 Supplement, 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 <del>the Administration of</del> |                |              |
| 27 | <del>Justice in</del> 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 2. Subsection (2) of section 27.703, Florida  
7 Statutes, is amended to read:

8 27.703 Conflict of interest and substitute counsel.--

9 (2) Appointed counsel shall be paid from funds  
10 appropriated to the Justice Administrative Commission. The  
11 hourly rate may not exceed \$100. However, effective July 1,  
12 1999, all appointments of private counsel under this section  
13 shall be in accordance with ss. 27.710 and 27.711.

14 Section 3. Section 27.709, Florida Statutes, 1998  
15 Supplement, is amended to read:

16 27.709 Commission on ~~the Administration of Justice in~~  
17 Capital Cases.--

18 (1)(a) There is created the Commission on ~~the~~  
19 ~~Administration of Justice in~~ Capital Cases, which shall  
20 consist of the six following members:

21 1. Two members appointed by the Governor.

22 2. Two members appointed by the President of the  
23 Senate from the membership of the Senate. One member shall be  
24 a member of the majority party, and one member shall be a  
25 member of the minority party.

26 3. Two members appointed by the Speaker of the House  
27 of Representatives from the membership of the House of  
28 Representatives. One member shall be a member of the majority  
29 party, and one member shall be a member of the minority party.

30 (b) The chair of the commission shall be selected by  
31 the members for a term of 1 year.

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1           (c) The commission shall meet quarterly, and other  
2 meetings may be called by the chair upon giving at least 7  
3 days' notice to all members and the public.

4           (d) Members of the commission are entitled to per diem  
5 and travel expenses to be paid by the appointing entity.

6           (e) The initial members of the commission must be  
7 appointed on or before October 1, 1997. Members of the  
8 commission shall be appointed to serve terms of 4 years each,  
9 except that a member's term shall expire upon leaving office  
10 as a member of the Senate or the House of Representatives. Two  
11 of the initial members, one from the Senate and one from the  
12 House of Representatives, shall be appointed for terms of 2  
13 years each. Two of the initial members, one from the Senate  
14 and one from the House of Representatives, shall be appointed  
15 for terms of 3 years each.

16           (f) The Office of Legislative Services shall provide  
17 staff support for the commission.

18           (2) The commission shall review the administration of  
19 justice in capital collateral cases, receive relevant public  
20 input, review the operation of the capital collateral regional  
21 counsel, and advise and make recommendations to the Governor,  
22 Legislature, and Supreme Court. In addition, the commission  
23 shall receive complaints regarding the practice of any office  
24 of regional counsel and shall refer any complaint to The  
25 Florida Bar, the State Supreme Court, or the Commission on  
26 Ethics, as appropriate.

27           (3) The Commission on ~~the Administration of Justice in~~  
28 Capital Cases shall conduct a study to evaluate whether the  
29 elimination of state postconviction proceedings in death  
30 penalty cases will reduce delays in carrying out a sentence of  
31 death in capital cases. In conducting the study, the

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1 commission shall take public testimony from any interested  
2 party. The commission shall review the average number of  
3 postconviction motions and writs filed in capital cases, prior  
4 legislative and judicial attempts to reduce delays in capital  
5 cases, and the length of time required for capital  
6 postconviction claims in state and federal court. The  
7 commission shall consider average delays in capital cases,  
8 whether those delays have increased in the last 10 years, and  
9 the reasons for any increase in delays. The study shall  
10 include a report which addresses the legal, fiscal, and  
11 practical considerations concerning the elimination of state  
12 postconviction proceedings, and the recommendation of the  
13 commission. Public notice shall be provided, in a manner  
14 agreed to by the commission, for all hearings where the  
15 commission intends to hear public testimony concerning the  
16 elimination of state postconviction proceedings in death  
17 penalty cases for purposes of this study. The report shall be  
18 submitted to the Speaker of the House of Representatives, the  
19 President of the Senate, and the minority leaders in the House  
20 and the Senate by December 1, 1998.

21 Section 4. Subsections (1), (4), and (6) of section  
22 27.710, Florida Statutes, 1998 Supplement, are amended to  
23 read:

24 27.710 Registry of attorneys applying to represent  
25 persons in postconviction capital collateral proceedings;  
26 certification of minimum requirements; appointment by trial  
27 court.--

28 (1) The executive director of the Commission on ~~the~~  
29 ~~Administration of Justice in Capital Cases~~ shall compile and  
30 maintain a statewide registry of attorneys in private practice  
31 who have certified that they meet the minimum requirements of

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1 s. 27.704(2) and who are available for appointment by the  
2 court under this section to represent persons convicted and  
3 sentenced to death in this state in postconviction capital  
4 collateral proceedings. To ensure that sufficient attorneys  
5 are available for appointment by the court, when the number of  
6 attorneys on the registry falls below 50, the executive  
7 director shall notify the chief judge of each circuit by  
8 letter and request the chief judge to promptly submit the  
9 names of at least three private attorneys who regularly  
10 practice criminal law in that circuit and who appear to meet  
11 the minimum requirements to represent persons in  
12 postconviction capital collateral proceedings. The executive  
13 director shall send an application to each attorney identified  
14 by the chief judge so that the attorney may register for  
15 appointment as counsel in postconviction capital collateral  
16 proceedings. As necessary, the executive director may also  
17 advertise in legal publications and other appropriate media  
18 for qualified attorneys interested in registering for  
19 appointment as counsel in postconviction capital collateral  
20 proceedings. Not later than September 1 of each year, and as  
21 necessary thereafter, the executive director shall provide to  
22 the Chief Justice of the Supreme Court, the chief judge and  
23 state attorney in each judicial circuit, and the Attorney  
24 General a current copy of its registry of attorneys who are  
25 available for appointment as counsel in postconviction capital  
26 collateral proceedings. The registry must be indexed by  
27 judicial circuit and must contain the requisite information  
28 submitted by the applicants in accordance with this section.

29 (4) Each private attorney who is appointed by the  
30 court to represent a capital defendant must enter into a  
31 contract with the Comptroller. If the appointed attorney fails

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1 to execute the contract within 30 days after the date the  
2 contract is mailed to the attorney, the executive director of  
3 the Commission on Capital Cases shall notify the trial court.  
4 The executive director of the Commission on ~~the Administration~~  
5 ~~of Justice~~ in Capital Cases shall develop the form of the  
6 contract, and the Comptroller shall function as contract  
7 manager and shall enforce performance of the terms and  
8 conditions of the contract. By signing such contract, the  
9 attorney certifies that he or she intends to continue the  
10 representation under the terms and conditions set forth in the  
11 contract until the sentence is reversed, reduced, or carried  
12 out or until released by order of the trial court.

13 (6) More than one attorney may not be appointed and  
14 compensated at any one time under s. 27.711 to represent a  
15 person in postconviction capital collateral proceedings.  
16 However, an attorney appointed under this section may  
17 designate another attorney to assist him or her if the  
18 designated attorney meets the qualifications of this section.

19 Section 5. Section 27.711, Florida Statutes, 1998  
20 Supplement, is amended to read:

21 27.711 Terms and conditions of appointment of  
22 attorneys as counsel in postconviction capital collateral  
23 proceedings.--

24 (1) As used in s. 27.710 and this section, the term:

25 (a) "Capital defendant" means the person who is  
26 represented in postconviction capital collateral proceedings  
27 by an attorney appointed under s. 27.710.

28 (b) "Executive director" means the executive director  
29 of the Commission on ~~the Administration of Justice~~ in Capital  
30 Cases.

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

2 And the title is amended as follows:

3       On page 1, lines 3-5, delete those lines

4

5 and insert:

6       representation; amending s. 27.702, F.S.;

7       redesignating the Commission on the

8       Administration of Justice in Capital Cases as

9       the Commission on Capital Cases; amending s.

10       27.703, F.S.; requiring private counsel

11       appointments to be in accordance with specified

12       provisions; amending s. 27.709, F.S.;

13       conforming provisions to changes made by the

14       act; amending

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