

Bill No. CS/HB 1-A, 1st Eng.

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Burt moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	Delete everything after the enacting clause		
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16	and insert:		
17	Section 1. <u>This act may be cited as the "Death Penalty</u>		
18	<u>Reform Act of 2000."</u>		
19	Section 2. Subsection (1) of section 27.702, Florida		
20	Statutes, is amended to read:		
21	27.702 Duties of the capital collateral regional		
22	counsel; reports.--		
23	(1) The capital collateral regional counsel shall		
24	represent each person convicted and sentenced to death in this		
25	state for the sole purpose of instituting and prosecuting		
26	collateral actions challenging the legality of the judgment		
27	and sentence imposed against such person in the state courts,		
28	federal courts in this state, the United States Court of		
29	Appeals for the Eleventh Circuit, and the United States		
30	Supreme Court. <u>The capital collateral regional counsel and the</u>		
31	<u>attorneys appointed pursuant to s. 27.710 shall file only</u>		

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1 those postconviction or collateral actions authorized by
2 statute.The three capital collateral regional counsels'
3 offices shall function independently and be separate budget
4 entities, and the regional counsels shall be the office heads
5 for all purposes. The Justice Administrative Commission shall
6 provide administrative support and service to the three
7 offices to the extent requested by the regional counsels. The
8 three regional offices shall not be subject to control,
9 supervision, or direction by the Justice Administrative
10 Commission in any manner, including, but not limited to,
11 personnel, purchasing, transactions involving real or personal
12 property, and budgetary matters.

13 Section 3. Section 119.19, Florida Statutes, is
14 amended to read:

15 119.19 Capital postconviction public records
16 production.--

17 (1) As used in this section, the term "trial court"
18 means:

19 (a) The judge who entered the judgment and imposed the
20 sentence of death; or

21 (b) If a motion for postconviction relief in a capital
22 case under Rule 3.850 or Rule 3.851 has been filed and a
23 different judge has already been assigned to that motion, the
24 judge who is assigned to rule on that motion.

25 (2) The Secretary of State shall establish and
26 maintain a records repository for the purpose of archiving
27 capital postconviction public records as provided for in this
28 section.

29 (3)(a) Upon imposition of a death sentence or upon the
30 effective date of this act with respect to any case in which a
31 death sentence has been imposed but the mandate has not yet

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1 ~~been issued in an appeal affirming the sentence, issuance of~~
2 ~~the Florida Supreme Court's mandate, the Attorney General~~
3 ~~shall promptly provide written notification to the state~~
4 ~~attorney who prosecuted the case that a death sentence has~~
5 ~~been affirmed. Upon receipt of such notification, the~~
6 prosecuting state attorney shall promptly provide written
7 notification to each law enforcement agency involved in the
8 case and to the Department of Corrections. If available, the
9 written notification must include the defendant's date of
10 birth, sex, race, and police-case numbers included in the
11 prosecuting attorney's case file.

12 (b) Within 60 ~~90~~ days after receipt of notification,
13 each law enforcement agency involved in the case and the
14 prosecuting state attorney who prosecuted the case shall copy,
15 seal, and deliver to the repository all public records, except
16 for those filed in the trial court, which were produced in the
17 investigation or prosecution of the case or, if the records
18 are confidential or exempt, to the clerk of the court in the
19 county in which the capital case was tried. Each agency shall
20 bear the costs of its own compliance.

21 ~~(4)(a) Upon issuance of the Florida Supreme Court's~~
22 ~~mandate, the Attorney General shall promptly provide written~~
23 ~~notification to the Department of Corrections that a death row~~
24 ~~inmate's sentence has been affirmed.~~

25 ~~(c)(b)~~ Within 60 ~~90~~ days after notification, the
26 Department of Corrections shall copy, seal, and deliver to the
27 repository or, if the records are confidential or exempt, to
28 the clerk of the court in the county in which the capital case
29 was tried all public records determined by the department to
30 be relevant to the subject matter of a capital postconviction
31 claim of the person sentenced to death ~~proceeding under Rule~~

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1 ~~3.850~~ or ~~Rule 3.851~~ and where such production would not be
2 unduly burdensome for the department. The department shall
3 bear the costs.

4 (4)(5)(a) The chief law enforcement officer of each
5 law enforcement agency that was involved in the case, whether
6 through an investigation, arrest, prosecution, or
7 incarceration, shall notify the Attorney General upon
8 compliance with subsection (3) and shall certify that to the
9 best of his or her knowledge and belief all public records in
10 possession of the agency or in possession of any employee of
11 the agency have been copied, indexed, and delivered to the
12 records repository or, if the records are confidential or
13 exempt, to the clerk of the court in the county in which the
14 capital case was tried as required by this section ~~subsection~~
15 ~~(3)~~.

16 (b) The prosecuting state attorney who prosecuted the
17 case shall provide written notification to the Attorney
18 General upon compliance with subsection (3) and shall certify
19 that to the best of his or her knowledge and belief all public
20 records in his or her possession have been copied, indexed,
21 and delivered to the records repository or, if the records are
22 confidential or exempt, to the clerk of the court in the
23 county in which the capital case was tried as required by this
24 section ~~subsection (3)~~.

25 (c) The Secretary of Corrections shall provide written
26 notification to the Attorney General upon compliance with
27 paragraph (3)(c) ~~subsection (4)~~ and shall certify that to the
28 best of his or her knowledge and belief all public records in
29 the department's possession have been copied, indexed, and
30 delivered to the records repository or, if the records are
31 confidential or exempt, to the clerk of the court in the

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1 county in which the capital case was tried as required by this
2 section paragraph (4)(b).

3 (5)(6)(a) Within 60 90 days after the imposition of a
4 death sentence or upon the effective date of this act with
5 respect to any case in which a death sentence has been imposed
6 but the mandate has not yet been issued in an appeal affirming
7 the sentence issuance of the Florida Supreme Court's mandate
8 affirming a death sentence, both the public defender or
9 private counsel for the defendant and the prosecuting state
10 attorney involved in the case shall provide written
11 notification to the Attorney General of the name and address
12 of any person or agency in addition to those persons and
13 agencies listed in subsection subsections (3) and (4) which
14 may have information pertinent to the case unless previously
15 provided to the capital collateral regional counsel or
16 postconviction private counsel. The Attorney General shall
17 promptly provide written notification to each identified
18 person or agency after receiving the information from the
19 public defender, private counsel for the defendant, or
20 prosecuting state attorney and shall request that all public
21 records in the possession of the person or agency which
22 pertain to the case be copied, sealed, and delivered to the
23 records repository.

24 (b) Within 60 90 days after receiving a request for
25 public records under paragraph (a), the person or agency shall
26 provide written notification to the Attorney General of
27 compliance with this subsection and shall certify that to the
28 best of his or her knowledge and belief all public records
29 requested have been copied, indexed, and delivered to the
30 records repository or, if the records are confidential or
31 exempt, to the clerk of the court in the county in which the

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1 capital case was tried.

2 ~~(6)(7)(a)~~ Any public record delivered to the records
3 repository under this section which is confidential or exempt
4 from the requirements of s. 119.07(1) and s. 24(a), Art. I of
5 the State Constitution must be separately boxed, without being
6 redacted, and sealed. The box must be delivered to the clerk
7 of court in the county in which the capital case was tried.
8 The outside of the box must clearly identify the public
9 records as exempt, and the seal may not be broken without an
10 order of the trial court. The outside of the box must identify
11 the nature of the public records and the legal basis under
12 which the public records are exempt.

13 (b) ~~Upon the entry of an appropriate court order,~~
14 ~~sealed boxes subject to an inspection by the trial court shall~~
15 ~~be shipped to the respective clerk of court.~~ Such a box may be
16 opened only for an inspection by the trial court in camera and
17 only after notice giving with a representative of the agency
18 the option to have a representative present at the unsealing
19 by the court. ~~The moving party shall bear all costs associated~~
20 ~~with the transportation and inspection of such records by the~~
21 ~~trial court.~~

22 ~~(7)(8)(a)~~ Within 180 ~~90~~ days after a capital
23 collateral regional counsel or private counsel is appointed to
24 represent a defendant sentenced to death, or within 30 days
25 after issuance of the Florida Supreme Court's mandate
26 affirming a death sentence, whichever is later, the regional
27 counsel, private counsel, or other counsel who is a member of
28 The Florida Bar and is authorized by such counsel representing
29 a defendant may ~~shall~~ send a written demand for additional
30 public records to each person or agency submitting public
31 records under subsection ~~subsections~~ (3) ~~and (4)~~ and to each

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1 person or agency identified as having information pertinent to
2 the case under subsection(5)(6). Should the written demand
3 include requests for records associated with particular named
4 individuals, the written demand shall also include a brief
5 statement describing each named persons role in the case and
6 relationship to the defendant. Race, sex and date of birth
7 shall also be included in the demand if the public defender,
8 private counsel or capital collateral regional counsel has
9 such information.Each person or agency notified under this
10 subsection shall, within 60 90 days after receipt of the
11 written demand, deliver to the records repository or, if the
12 records are confidential or exempt, to the clerk of the court
13 in the county in which the capital case was tried any
14 additional public records in the possession of the person or
15 agency which pertain to the case and shall certify that to the
16 best of his or her knowledge and belief all additional public
17 records have been delivered ~~to the Attorney General~~ or, if no
18 additional public records are found, shall recertify that the
19 public records previously delivered are complete.

20 (b) Within 25 60 days after receiving the written
21 demand, the agency or person may file an objection in the
22 trial court alleging that the request is overly broad or
23 unduly burdensome. Within 30 days after the filing of an
24 objection, the trial court shall hold a hearing and order an
25 agency or person to produce additional public records if it
26 finds each of the following:

- 27 1. The regional counsel or private counsel has made a
28 timely and diligent search as provided in this section.
- 29 2. The regional or private counsel's written demand
30 identifies, with specificity, those additional public records
31 that are not at the repository.

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1 3. The additional public records sought are relevant
2 to the subject matter of a capital postconviction relief
3 ~~proceeding under Rule 3.850 or Rule 3.851~~ or appear reasonably
4 calculated to lead to the discovery of admissible evidence in
5 prosecuting such claim.

6 4. The additional public records request is not
7 overbroad or unduly burdensome.

8 ~~(c) The Attorney General and state attorney shall~~
9 ~~provide notification as provided in subsections (3) and (4) on~~
10 ~~cases where the mandate has issued on the date that this~~
11 ~~statute becomes effective, but where initial requests for~~
12 ~~public records have not been made.~~

13 ~~(c)(d) If, on the date that this statute becomes~~
14 ~~effective, a defendant is represented by appointed capital~~
15 ~~collateral regional counsel or private counsel, and he or she~~
16 ~~has initiated the public records request process, counsel~~
17 ~~shall file within 90 days of the effective date of this~~
18 ~~statute, a written demand for any additional records that have~~
19 ~~not previously been the subject of a notice to produce. An~~
20 ~~agency may file an objection to such additional demand, and~~
21 ~~the trial court shall hold a hearing as provided by paragraph~~
22 ~~(b). This statute shall not be a basis for renewing requests~~
23 ~~that have been initiated previously or for relitigating issues~~
24 ~~pertaining to production of public records upon which a court~~
25 ~~has ruled prior to the effective date of the statute, or for~~
26 ~~stopping an execution which has been scheduled based upon a~~
27 ~~warrant executed by the Governor prior to the effective date~~
28 ~~of the statute.~~

29 ~~(d)(e) If, on October 1, 1998 the date that this~~
30 ~~statute becomes effective, the defendant has had a Rule 3.850~~
31 ~~motion denied and no Rule 3.850 motion was is pending, no~~

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1 additional requests shall be made by capital collateral
2 regional counsel or contracted private counsel until a death
3 warrant is signed by the Governor and an execution is
4 scheduled. Within 10 days of the signing of the death warrant,
5 capital collateral regional counsel or contracted private
6 counsel may request of a person or agency that the defendant
7 has previously requested to produce records any records
8 previously requested to which no objection was raised or
9 sustained, but which the agency has received or produced since
10 the previous request or which for any reason the agency has in
11 its possession and did not produce within 10 days of the
12 receipt of the previous notice or such shorter time period
13 ordered by the court to comply with the time for the scheduled
14 execution. The person or agency shall produce the record or
15 shall file in the trial court an affidavit stating that it
16 does not have the requested record or that the record has been
17 produced previously.

18 (8)(9)(a) After production of additional public
19 records or recertification as provided in subsection(7)(8),
20 the regional counsel or the private counsel is prohibited from
21 making any further public records requests under this chapter.
22 An agency is not required to produce additional public records
23 except by court order as provided in this subsection.

24 (b) In order to obtain additional public records
25 beyond those provided under subsection(7)(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 capital
2 postconviction claim ~~proceeding under Rule 3.850 or Rule 3.851~~
3 or are reasonably calculated to lead to the discovery of
4 admissible evidence in the prosecution of such claim. The
5 affiant shall provide a copy of the affidavit to all affected
6 agencies upon the filing of such affidavit in the trial court.

7 (c) Within 15 ~~30~~ days after the filing of an
8 affidavit, the trial court shall order an agency to produce
9 additional public records only if it finds each of the
10 following:

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

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

16 3. The additional public records sought are relevant
17 to the subject matter of a claim for capital postconviction
18 relief ~~proceeding under Rule 3.850 or Rule 3.851~~ or appear
19 reasonably calculated to lead to the discovery of admissible
20 evidence in prosecuting such claim.

21 4. The additional public records request is not
22 overbroad or unduly burdensome.

23 ~~(9)(10)~~ The Secretary of State ~~capital collateral~~
24 ~~regional counsel or private counsel~~ shall provide the
25 personnel, supplies, and any necessary equipment used by the
26 capital collateral regional counsel or private counsel to copy
27 records held at the records repository.

28 ~~(10)(11)~~ The trial court shall resolve any dispute
29 that arises under this section, unless the appellate court has
30 exclusive jurisdiction.

31 ~~(11)(12)~~ The capital collateral regional counsel or

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1 private counsel shall not solicit another person to make a
2 request for public records on behalf of the regional counsel
3 or private counsel. The trial court shall impose appropriate
4 sanctions against any regional counsel or private counsel
5 found in violation of this subsection.

6 (12)~~(13)~~ Sixty days after a capital sentence is
7 carried out, 60 days after a defendant is released from
8 incarceration following the granting of a pardon or reversal
9 of the sentence, or 60 days after the defendant has been
10 resentenced to a term of years, the Attorney General shall
11 provide written notification to the Secretary of State, who
12 may then destroy the records held by the records repository
13 which pertain to that case.

14 (13)~~(14)~~ This section pertains only to the production
15 of records for capital postconviction defendants and does not
16 change or alter any time limitations provided by law governing
17 capital postconviction claims and actions ~~periods specified in~~
18 ~~Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.~~
19 Furthermore, this section does not affect, expand, or limit
20 the production of public records for any purposes other than
21 use in a capital postconviction proceeding ~~held pursuant to~~
22 ~~Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.~~
23 Nothing in this section constitutes grounds to expand the time
24 limitations or allow any pleading in violation of chapter 924
25 or to stay an execution or death warrant.

26 Section 4. Section 922.095, Florida Statutes, is
27 amended to read:

28 922.095 Grounds for death warrant; limitations of
29 actions.--A person who is convicted and sentenced to death
30 must pursue all possible collateral remedies within the time
31 limits provided by statute in state and federal court in a

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1 ~~timely manner. If any court refuses to grant relief in a~~
2 ~~collateral postconviction proceeding, the convicted person has~~
3 ~~90 days in which to seek further collateral review. Failure to~~
4 ~~seek relief within the statutory time limits further~~
5 ~~collateral review within the 90-day period constitutes grounds~~
6 ~~for issuance of a death warrant under s. 922.052 or s. 922.14.~~
7 Any claim not pursued within the statutory time limits is
8 barred. No claim filed after the time required by law shall be
9 grounds for a judicial stay of any warrant.

10 Section 5. Section 924.055, Florida Statutes, is
11 amended to read:

12 (Substantial rewording of section. See
13 s. 924.055, F.S., for present text.)

14 924.055 Postconviction review in capital cases;
15 legislative findings and intent.--

16 (1) It is the intent of the Legislature to reduce
17 delays in capital cases and to ensure that all appeals and
18 postconviction actions in capital cases are resolved within 5
19 years after the date a sentence of death is imposed in the
20 circuit court. All capital postconviction actions must be
21 filed as early as possible after the imposition of a sentence
22 of death which may be during a direct appeal of the conviction
23 and sentence. A person sentenced to death or that person's
24 capital postconviction counsel must file any postconviction
25 legal action in compliance with the statutes of limitation
26 established in s. 924.056 and elsewhere in this chapter.
27 Except as expressly allowed by s. 924.056(5), a person
28 sentenced to death or that person's capital postconviction
29 counsel may not file more than one postconviction action in a
30 sentencing court and one appeal therefrom to the Florida
31 Supreme Court, unless authorized by law.

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1 (2) It is the further intent of the Legislature that
2 no state resources be expended in violation of this act. In
3 the event that any state employee or party contracting with
4 the state violates the provisions of this act, the Attorney
5 General shall deliver to the Speaker of the House of
6 Representatives and the President of the Senate a copy of any
7 court pleading or order that describes or adjudicates a
8 violation.

9 Section 6. Section 924.056, Florida Statutes, is
10 created to read:

11 924.056 Commencement of capital postconviction actions
12 for which sentence of death is imposed on or after the
13 effective date of this act; limitations on actions.--

14 (1) In every capital case in which the trial court
15 imposes a sentence of death on or after the effective date of
16 this act, this section shall govern all postconviction
17 proceedings in state court.

18 (a) Within 15 days after imposing a sentence of death,
19 the sentencing court shall appoint the appropriate office of
20 the capital collateral regional counsel or private
21 postconviction counsel, unless the defendant declines to
22 accept postconviction legal representation in which case the
23 state shall not provide postconviction legal representation.
24 Within 30 days after the appointment, the capital collateral
25 regional counsel shall file a notice of appearance in the
26 trial court or a motion to withdraw based on a conflict of
27 interest or for good cause. The court shall appoint private
28 counsel pursuant to part IV of chapter 27 in any case in which
29 the capital collateral regional counsel files a motion to
30 withdraw, or otherwise informs the court that the capital
31 collateral regional counsel cannot comply with the provisions

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1 of chapter 924 or in which the court determines that the
2 agency cannot comply with chapter 924 or other applicable
3 laws.

4 (b) The defendant who accepts the appointment of
5 postconviction counsel must cooperate with and assist
6 postconviction counsel. If the sentencing court finds the
7 defendant is obstructing the postconviction process, the
8 defendant shall not be entitled to any further postconviction
9 legal representation provided by the state. Each attorney
10 participating in a capital case on behalf of a defendant must
11 provide all information pertaining to the capital case which
12 the attorney obtained during the representation of that
13 defendant to that defendant's capital postconviction counsel.
14 Postconviction counsel must maintain the confidentiality of
15 any confidential information received from any attorney for
16 that defendant and is subject to the same penalties as the
17 providing attorney for violating confidentiality. If the
18 defendant requests without good cause that any attorney
19 appointed under this subsection be removed or replaced, the
20 court shall notify the defendant that no further state
21 resources may be expended for postconviction representation
22 for that defendant, unless the defendant withdraws the request
23 to remove or replace postconviction counsel. If the defendant
24 does not immediately withdraw his or her request, then any
25 appointed attorney must be removed from the case and no
26 further state resources may be expended for the defendant's
27 postconviction representation. The prosecuting attorney and
28 the defendant's trial counsel shall provide the defendant or,
29 if represented, the defendant's capital postconviction counsel
30 with copies of all pretrial and trial discovery and all
31 contents of the prosecuting attorney's file, except for

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1 information that the prosecuting attorney has a legal right
2 under state or federal law to withhold from disclosure.

3 (2) The clerk of the court shall provide a copy of the
4 record on appeal to the capital postconviction attorney and
5 the state attorney and Attorney General within 60 days after
6 the sentencing court appoints postconviction counsel. However,
7 the court may grant an extension of up to 30 days when
8 extraordinary circumstances exist.

9 (3)(a) With respect to all capital postconviction
10 actions commenced after the effective date of this act, a
11 capital postconviction action is not commenced until the
12 defendant or the defendant's postconviction counsel files a
13 fully pled postconviction action in the sentencing court or,
14 as provided in subsection (4), the Florida Supreme Court. For
15 the purposes of this subsection, a fully pled capital
16 postconviction action is one which complies with s. 924.058(2)
17 or any superseding rule adopted by the Florida Supreme Court.
18 Except as provided by subsection (4) or subsection (5), all
19 capital postconviction actions shall be barred unless they are
20 commenced within 180 days after the filing of the appellant's
21 initial brief in the Florida Supreme Court on direct appeal of
22 the defendant's capital conviction and sentence. The fully
23 pled postconviction action must raise all cognizable claims
24 that the defendant's judgment or sentence was entered in
25 violation of the Constitution or laws of the United States or
26 the Constitution or the laws of the state, including any claim
27 of ineffective assistance of trial counsel, allegations of
28 innocence, or that the state withheld evidence favorable to
29 the defendant. No claim may be considered in such action which
30 could have or should have been raised before trial, at trial,
31 or if preserved on direct appeal. For the purposes of this

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1 subsection, a capital postconviction action is not fully pled
2 unless it satisfies the requirements of s. 924.058(2) or any
3 superseding rule of court.

4 (b) No claim of ineffective assistance of collateral
5 postconviction counsel may be raised in a state court.

6 (c) The pendency of public records requests or
7 litigation, or the pendency of other litigation, or the
8 failure of the defendant or the defendant's postconviction
9 counsel to timely prosecute a case shall not constitute cause
10 for the court to grant any request for an extension of time or
11 other delay. No appeal may be taken from a court's ruling
12 denying such a request for an extension of time or other
13 delay.

14 (d) The time for commencement, of the postconviction
15 action, may not be tolled for any reason or cause. All claims
16 raised by amendment of a defendant's capital postconviction
17 action are barred if the claims are raised outside the time
18 limitations provided by statute for the filing of capital
19 postconviction actions.

20 (4) All capital postconviction actions raising any
21 claim of ineffective assistance of direct appeal counsel are
22 barred unless they are commenced in conformity with this
23 subsection. The defendant or the defendant's capital
24 postconviction counsel shall file an action in the Florida
25 Supreme Court raising any claim of ineffective assistance of
26 direct appeal counsel within 45 days after mandate issues
27 affirming the death sentence in the direct appeal.

28 (5) Regardless of when a sentence is imposed, all
29 successive capital postconviction actions are barred unless
30 commenced by filing a fully pled postconviction action within
31 90 days after the facts giving rise to the cause of action

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1 were discovered or should have been discovered with the
2 exercise of due diligence. Such claim shall be barred pursuant
3 to subsection (3) or s. 924.057 unless the facts underlying
4 the claim, if proven and viewed in light of the evidence as a
5 whole, would be sufficient to establish by clear and
6 convincing evidence that, but for constitutional error, no
7 reasonable fact finder would have found the defendant guilty
8 of the underlying offense. Additionally, the facts underlying
9 this claim must have been unknown to the defendant or his or
10 her attorney and must be such that they could not have been
11 ascertained by the exercise of due diligence prior to filing
12 the earlier postconviction motion. The time period allowed for
13 filing a successive collateral postconviction action shall not
14 be grounds for a stay.

15 Section 7. Section 924.057, Florida Statutes, is
16 created to read:

17 924.057 Limitation on postconviction cases in which
18 the death sentence was imposed before the effective date of
19 this act.--This section shall govern all capital
20 postconviction actions in cases in which the trial court
21 imposed the sentence of death before the effective date of
22 this act.

23 (1) Nothing in this act shall expand any right or time
24 period allowed for the prosecution of capital postconviction
25 claims in any case in which a postconviction action was
26 commenced or should have been commenced prior to the effective
27 date of this act.

28 (2) Except as provided in s. 924.056(5), in every case
29 in which mandate has issued in the Florida Supreme Court
30 concluding at least one capital postconviction action in the
31 state court system, a successive capital postconviction action

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1 shall be barred on the effective date of this act, unless the
2 rules or law in effect immediately prior to the effective date
3 of this act permitted the successive postconviction action, in
4 which case the action shall be barred on the date provided in
5 subsection (4).

6 (3) All capital postconviction actions pending on the
7 effective date of this act shall be barred, and shall be
8 dismissed with prejudice, unless fully pled in substantial
9 compliance with s. 924.058, or with any superseding order or
10 rule, on or before:

11 (a) The time in which the action would be barred by
12 this section if the action had not begun prior to the
13 effective date of this act, or

14 (b) Any earlier date provided by the rules or law, or
15 court order, in effect immediately prior to the effective date
16 of this act.

17 (4) In every capital case in which the trial court
18 imposed the sentence of death before the effective date of
19 this act, a capital postconviction action shall be barred
20 unless it is commenced on or before January 8, 2001, or any
21 earlier date provided by the rule or law in effect immediately
22 prior to the effective date of this act.

23 Section 8. Section 924.058, Florida Statutes, is
24 created to read:

25 924.058 Capital postconviction claims.--This section
26 shall regulate the procedures in actions for capital
27 postconviction relief commencing after the effective date of
28 this act unless and until such procedures are revised by rule
29 or rules adopted by the Florida Supreme Court which
30 specifically reference this section.

31 (1) The defendant or the defendant's capital

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1 postconviction counsel shall not file more than one capital
2 postconviction action in the sentencing court, one appeal
3 therefrom in the Florida Supreme Court, and one original
4 capital postconviction action alleging the ineffectiveness of
5 direct appeal counsel in the Florida Supreme Court, except as
6 expressly allowed by s. 924.056(5).

7 (2) The defendant's postconviction action shall be
8 filed under oath and shall be fully pled to include:

9 (a) The judgment or sentence under attack and the
10 court which rendered the same;

11 (b) A statement of each issue raised on appeal and the
12 disposition thereof;

13 (c) Whether a previous postconviction action has been
14 filed and, if so, the disposition of all previous claims raised
15 in postconviction litigation; if a previous action or actions
16 have been filed, the reason or reasons the claim or claims in
17 the present motion were not raised in the former action or
18 actions;

19 (d) The nature of the relief sought;

20 (e) A fully detailed allegation of the factual basis
21 for any claim of legal or constitutional error asserted,
22 including the attachment of any document supporting the claim,
23 the name and address of any witness, the attachment of
24 affidavits of the witnesses or a proffer of the testimony; and

25 (f) A concise memorandum of applicable case law as to
26 each claim asserted.

27 (3) Any capital postconviction action that does not
28 comply with any requirement in this section or other
29 applicable provision in law shall not be considered in any
30 state court. No amendment of a defendant's capital
31 postconviction action shall be allowed by the court after the

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1 expiration of the time limitation provided by statute for the
2 commencement of capital postconviction actions.

3 (4) The prosecuting attorney or Attorney General shall
4 be allowed to file one response to any capital postconviction
5 action within 60 days after receipt of the defendant's fully
6 pled capital postconviction action.

7 Section 9. Section 924.059, Florida Statutes, is
8 created to read:

9 924.059 Time limitations and judicial review in
10 capital postconviction actions.--This section shall regulate
11 the procedures in actions for capital postconviction relief
12 commencing after the effective date of this act unless and
13 until such procedures are revised by rule or rules adopted by
14 the Florida Supreme Court which specifically reference this
15 section.

16 (1) No amendment of a defendant's capital
17 postconviction action shall be allowed by the court after the
18 expiration of the time periods provided by statute for the
19 filing of capital postconviction claims.

20 (2) Within 30 days after the state files its answer,
21 the sentencing court shall conduct a hearing to determine if
22 an evidentiary hearing is required, if a hearing has been
23 requested by the defendant or the defendant's capital
24 postconviction counsel. Within 30 days thereafter, the court
25 shall rule whether an evidentiary hearing is required and, if
26 so, shall schedule an evidentiary hearing to be held within 90
27 days. If the court determines that the defendant's capital
28 postconviction action is legally insufficient or the action,
29 files, and records in the case show that the defendant is not
30 entitled to relief, the court shall, within 45 days
31 thereafter, deny the action, setting forth a detailed

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1 rationale therefore, and attaching or referencing such
2 portions of the record as are necessary to allow for
3 meaningful appellate review.

4 (3) Within 10 days after the order scheduling an
5 evidentiary hearing, the defendant or the defendant's capital
6 postconviction counsel shall disclose the names and addresses
7 of any potential witnesses not previously disclosed, with
8 their affidavits or a proffer of their testimony. Upon receipt
9 of the defendant's disclosure, the state shall have 10 days
10 within which to provide reciprocal disclosure. If the
11 defendant intends to offer expert testimony of his or her
12 mental status, the state shall be entitled to have the
13 defendant examined by an expert of its choosing. All of the
14 defendant's mental status claims shall be deemed denied as a
15 matter of law if the defendant fails to cooperate with the
16 state's expert. Reports provided by expert witnesses shall be
17 disclosed by opposing counsel upon receipt.

18 (4) Following the evidentiary hearing, the court shall
19 order the transcription of the proceeding which shall be filed
20 within 30 days. Within 30 days after receipt of the
21 transcript, the sentencing court shall issue a final order
22 granting or denying postconviction relief, making detailed
23 findings of fact and conclusions of law with respect to any
24 allegation asserted.

25 (5) An appeal may be taken to the Supreme Court of
26 Florida within 15 days from the entry of a final order on a
27 capital postconviction action. No interlocutory appeal shall
28 be permitted. No motion for rehearing shall be permitted. The
29 clerk of the court shall promptly serve upon all parties a
30 copy of the final order.

31 (6) If the sentencing court has denied the capital

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1 postconviction action without an evidentiary hearing, the
2 appeal to the Florida Supreme Court will be expeditiously
3 resolved in a summary fashion. On appeal the case shall be
4 initially reviewed for a determination whether the sentencing
5 court correctly resolved the defendant's claims without an
6 evidentiary hearing. If the Florida Supreme Court determines
7 an evidentiary hearing should have been held, the decision to
8 remand for an evidentiary hearing may be made by an order
9 without an opinion. Jurisdiction shall be relinquished to the
10 trial court for a specified period, which must be scheduled
11 within 30 days and must be concluded within 90 days, for the
12 purpose of conducting an evidentiary hearing on any issue
13 identified by the Florida Supreme Court's order. Thereafter,
14 the record shall be supplemented with the hearing transcript.

15 (7) The Florida Supreme Court shall render its
16 decision within 180 days after receipt of the record on
17 appeal. If a denial of an action for postconviction relief is
18 affirmed, the Governor may proceed to issue a warrant for
19 execution.

20 (8) A capital postconviction action filed in violation
21 of the time limitations provided by statute is barred, and all
22 claims raised therein are waived. A state court shall not
23 consider any capital postconviction action filed in violation
24 of s. 924.056 or s. 924.057. The Attorney General shall
25 deliver to the Governor, the President of the Senate, and the
26 Speaker of the House of Representatives a copy of any pleading
27 or order that alleges or adjudicates any violation of this
28 provision.

29 Section 10. Rule 3.850, Florida Rules of Criminal
30 Procedure, relating to the grant of a new trial, is repealed
31 to the extent that it is inconsistent with this act. Rule

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1 3.851, Florida Rules of Criminal Procedure as amended January
2 15, 1998, relating to collateral relief after death sentence
3 has been imposed, is repealed. Rule 3.852, Florida Rules of
4 Criminal Procedure, relating to capital postconviction public
5 records production, is repealed.

6 Section 11. Subsections (4) and (5) of section 27.710,
7 Florida Statutes, are amended to read:

8 27.710 Registry of attorneys applying to represent
9 persons in postconviction capital collateral proceedings;
10 certification of minimum requirements; appointment by trial
11 court.--

12 (4) Each private attorney who is appointed by the
13 court to represent a capital defendant must enter into a
14 contract with the Comptroller. If the appointed attorney fails
15 to execute the contract within 30 days after the date the
16 contract is mailed to the attorney, the executive director of
17 the Commission on Capital Cases shall notify the trial court.
18 The Comptroller ~~executive director of the Commission on~~
19 ~~Capital Cases~~ shall develop the form of the contract, ~~and the~~
20 ~~Comptroller shall~~ function as contract manager, ~~and shall~~
21 enforce performance of the terms and conditions of the
22 contract. By signing such contract, the attorney certifies
23 that he or she intends to continue the representation under
24 the terms and conditions set forth in the contract until the
25 sentence is reversed, reduced, or carried out or until
26 released by order of the trial court.

27 (5)(a) Upon the motion of the capital collateral
28 regional counsel to withdraw pursuant to s. 924.056(1)(a); or

29 (b) Upon notification by the state attorney or the
30 Attorney General that:

31 1. Thirty days have elapsed since appointment of the

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1 capital collateral regional counsel and no entry of appearance
2 has been filed pursuant to s. 924.056; or

3 ~~(a) Ninety-one days have elapsed since the Supreme~~
4 ~~Court issued a mandate on a direct appeal, or the Supreme~~
5 ~~Court of the United States has denied a petition for~~
6 ~~certiorari, whichever is later;~~

7 2.(b) A person under sentence of death who was
8 previously represented by private counsel is currently
9 unrepresented in a postconviction capital collateral
10 proceeding, ~~or~~

11 ~~(c) The trial court has issued an order finding that a~~
12 ~~year and a day have elapsed since the commencement of the~~
13 ~~period for filing a motion for postconviction relief under s.~~
14 ~~924.055(2), and the defendant's complete original motion for~~
15 ~~postconviction relief has not been filed in the trial court;~~

16
17 the executive director shall immediately notify the trial
18 court that imposed the sentence of death that the court must
19 immediately appoint an attorney, selected from the current
20 registry, to represent such person in collateral actions
21 challenging the legality of the judgment and sentence in the
22 appropriate state and federal courts. The court shall have the
23 authority to strike a notice of appearance filed by a Capital
24 Collateral Regional Counsel, if the court finds the notice was
25 not filed in good faith and may so notify the executive
26 director that the client is no longer represented by the
27 Office of Capital Collateral Regional Counsel. In making an
28 assignment, the court shall give priority to attorneys whose
29 experience and abilities in criminal law, especially in
30 capital proceedings, are known by the court to be commensurate
31 with the responsibility of representing a person sentenced to

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1 death. The trial court must issue an order of appointment
2 which contains specific findings that the appointed counsel
3 meets the statutory requirements and has the high ethical
4 standards necessary to represent a person sentenced to death.

5 Section 12. Section 27.51, Florida Statutes, is
6 amended to read:

7 27.51 Duties of public defender.--

8 (1) The public defender shall represent, without
9 additional compensation, any person who is determined by the
10 court to be indigent as provided in s. 27.52 and who is:

11 (a) Under arrest for, or is charged with, a felony;

12 (b) Under arrest for, or is charged with, a
13 misdemeanor, a violation of chapter 316 which is punishable by
14 imprisonment, criminal contempt, or a violation of a municipal
15 or county ordinance in the county court, unless the court,
16 prior to trial, files in the cause an order of no imprisonment
17 which states that the defendant will not be imprisoned if he
18 or she is convicted;

19 (c) Alleged to be a delinquent child pursuant to a
20 petition filed before a circuit court; or

21 (d) Sought by petition filed in such court to be
22 involuntarily placed as a mentally ill person or sexually
23 violent predator or involuntarily admitted to residential
24 services as a person with developmental disabilities. However,
25 a public defender does not have the authority to represent any
26 person who is a plaintiff in a civil action brought under the
27 Florida Rules of Civil Procedure, the Federal Rules of Civil
28 Procedure, or the federal statutes, or who is a petitioner in
29 an administrative proceeding challenging a rule under chapter
30 120, unless specifically authorized by statute.

31 (2) The court may not appoint the public defender to

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1 represent, even on a temporary basis, any person who is not
2 indigent. The court, however, may appoint private counsel in
3 capital cases as provided in s. 925.035.

4 (3) Each public defender shall serve on a full-time
5 basis and is prohibited from engaging in the private practice
6 of law while holding office. Assistant public defenders shall
7 give priority and preference to their duties as assistant
8 public defenders and shall not otherwise engage in the
9 practice of criminal law.

10 (4) The public defender for a judicial circuit
11 enumerated in this subsection shall, after the record on
12 appeal is transmitted to the appellate court by the office of
13 the public defender which handled the trial and if requested
14 by any public defender within the indicated appellate
15 district, handle all felony appeals to the state and federal
16 courts required of the official making such request:

17 (a) Public defender of the second judicial circuit, on
18 behalf of any public defender within the district comprising
19 the First District Court of Appeal.

20 (b) Public defender of the tenth judicial circuit, on
21 behalf of any public defender within the district comprising
22 the Second District Court of Appeal.

23 (c) Public defender of the eleventh judicial circuit,
24 on behalf of any public defender within the district
25 comprising the Third District Court of Appeal.

26 (d) Public defender of the fifteenth judicial circuit,
27 on behalf of any public defender within the district
28 comprising the Fourth District Court of Appeal.

29 (e) Public defender of the seventh judicial circuit,
30 on behalf of any public defender within the district
31 comprising the Fifth District Court of Appeal.

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1 (5) When the public defender for a judicial circuit
2 enumerated in subsection (4) has represented at trial a person
3 sentenced to death, the public defender shall not represent
4 that person in any direct appellate proceedings. That public
5 defender shall notify the Florida Supreme Court within 10 days
6 after filing a notice of appeal, and the Court shall appoint
7 another public defender enumerated in subsection (4) to
8 represent the person in any direct appellate proceedings.

9 ~~(6)~~(5)(a) When direct appellate proceedings prosecuted
10 by a public defender on behalf of an accused and challenging a
11 judgment of conviction and sentence of death terminate in an
12 affirmance of such conviction and sentence, whether by the
13 Florida Supreme Court or by the United States Supreme Court or
14 by expiration of any deadline for filing such appeal in a
15 state or federal court, the public defender shall notify the
16 accused of his or her rights pursuant to Rule 3.850, Florida
17 Rules of Criminal Procedure, including any time limits
18 pertinent thereto, and shall advise such person that
19 representation in any collateral proceedings is the
20 responsibility of the capital collateral representative. The
21 public defender shall then forward all original files on the
22 matter to the capital collateral representative, retaining
23 such copies for his or her files as may be desired. However,
24 the trial court shall retain the power to appoint the public
25 defender or other attorney not employed by the capital
26 collateral representative to represent such person in
27 proceedings for relief by executive clemency pursuant to s.
28 925.035.

29 (b) It is the intent of the Legislature that any
30 public defender representing an inmate in any collateral
31 proceedings in any court on June 24, 1985, shall continue

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1 representation of that inmate in all postconviction
2 proceedings unless relieved of responsibility from further
3 representation by the court.

4 ~~(7)(6)~~ A sum shall be appropriated to the public
5 defender of each judicial circuit enumerated in subsection (4)
6 for the employment of assistant public defenders and clerical
7 employees and the payment of expenses incurred in cases on
8 appeal.

9 Section 13. Subsections (1) and (2) of section 27.703,
10 Florida Statutes, are amended to read:

11 27.703 Conflict of interest and substitute counsel.--

12 (1) The capital collateral regional counsel shall not
13 accept an appointment or take any other action that will
14 create a conflict of interest. If, at any time during the
15 representation of a person ~~two or more persons~~, the capital
16 collateral regional counsel determines that the continued
17 representation of that person creates a interests of those
18 ~~persons are so adverse or hostile that they cannot all be~~
19 ~~counseled by the regional counsel or his or her staff without~~
20 conflict of interest, the sentencing court shall, upon
21 application by the regional counsel, designate another
22 regional counsel and, only if a conflict exists with the other
23 two counsels, appoint one or more members of The Florida Bar
24 to represent one or more of such persons.

25 (2) Appointed counsel shall be paid from funds
26 appropriated to the Comptroller Justice Administrative
27 ~~Commission~~. The hourly rate may not exceed \$100. However,
28 effective July 1, 1999, all appointments of private counsel
29 under this section shall be in accordance with ss. 27.710 and
30 27.711.

31 Section 14. In order to implement the provisions of

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1 section 27.703, Florida Statutes, as amended by this act, the
2 Justice Administrative Commission shall transfer all
3 unexpended funds from Specific Appropriation 615 of the
4 1999-2000 General Appropriations Act to the Administrative
5 Trust Fund within the Department of Banking and Finance for
6 disbursement purposes. The Department of Banking and Finance
7 is authorized to expend such funds transferred by the Justice
8 Administrative Commission for contracts with private
9 attorneys. In addition, the Department of Banking and Finance
10 is authorized to expend up to \$60,000 of such funds for
11 associated administrative support and two additional positions
12 are authorized for fiscal year 1999-2000.

13 Section 15. Subsection (2) of section 27.709, Florida
14 Statutes, is amended to read:

15 27.709 Commission on Capital Cases.--

16 (2)(a) The commission shall review the administration
17 of justice in capital collateral cases, receive relevant
18 public input, review the operation of the capital collateral
19 regional counsel, and advise and make recommendations to the
20 Governor, Legislature, and Supreme Court.

21 (b) As part of its duties, the commission shall
22 compile and analyze case-tracking reports produced by the
23 Supreme Court. In analyzing these reports, the commission
24 shall develop statistics to identify trends and changes in
25 case management and case processing, identify and evaluate
26 unproductive points of delay, and generally evaluate the way
27 cases are progressing. The commission shall report these
28 findings to the Legislature by January 1 of each year.

29 (c) In addition, the commission shall receive
30 complaints regarding the practice of any office of regional
31 counsel and shall refer any complaint to The Florida Bar, the

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1 State Supreme Court, or the Commission on Ethics, as
2 appropriate.

3 Section 16. Subsection (3) of section 27.711, Florida
4 Statutes, is amended, and subsection (13) is added to that
5 section, to read:

6 27.711 Terms and conditions of appointment of
7 attorneys as counsel in postconviction capital collateral
8 proceedings.--

9 (3) An attorney appointed to represent a capital
10 defendant is entitled to payment of the fees set forth in this
11 section only upon full performance by the attorney of the
12 duties specified in this section and approval of payment by
13 the trial court, and the submission of a payment request by
14 the attorney, subject to the availability of sufficient
15 funding specifically appropriated for this purpose. The
16 ~~Comptroller Justice Administrative Commission~~ shall notify the
17 executive director and the court if it appears that sufficient
18 funding has not been specifically appropriated for this
19 purpose to pay any fees which may be incurred. The attorney
20 shall maintain appropriate documentation, including a current
21 and detailed hourly accounting of time spent representing the
22 capital defendant. The fee and payment schedule in this
23 section is the exclusive means of compensating a
24 court-appointed attorney who represents a capital defendant.
25 When appropriate, a court-appointed attorney must seek further
26 compensation from the Federal Government, as provided in 18
27 U.S.C. s. 3006A or other federal law, in habeas corpus
28 litigation in the federal courts.

29 (13) Prior to the filing of a motion for order
30 approving payment of attorney's fees, costs, or related
31 expenses, the assigned counsel shall deliver a copy of his

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1 intended billing, together with supporting affidavits and all
2 other necessary documentation, to the Comptroller's named
3 contract manager. The contract manager shall have 10 business
4 days from receipt to review the billings, affidavit, and
5 documentation for completeness and compliance with contractual
6 and statutory requirements. If the contract manager objects to
7 any portion of the proposed billing, the objection and reasons
8 therefor shall be communicated to the assigned counsel. The
9 assigned counsel may thereafter file his or her motion for
10 order approving payment of attorney's fees, costs, or related
11 expenses together with supporting affidavits and all other
12 necessary documentation. The motion must specify whether the
13 Comptroller's contract manager objects to any portion of the
14 billing or the sufficiency of documentation and, if so, the
15 reason therefor. A copy of the motion and attachments shall be
16 served on the Comptroller's contract manager, who shall have
17 standing to file pleadings and appear before the court to
18 contest any motion for order approving payment. The fact that
19 the Comptroller's contract manager has not objected to any
20 portion of the billing or to the sufficiency of the
21 documentation is not binding on the court, which retains
22 primary authority and responsibility for determining the
23 reasonableness of all billings for fees, costs, and related
24 expenses, subject to statutory limitations.

25 Section 17. Section 924.395, Florida Statutes, is
26 created to read:

27 924.395 Sanctions.--

28 (1) The Legislature strongly encourages the courts,
29 through their inherent powers and pursuant to this section, to
30 impose sanctions against any person within the court's
31 jurisdiction who is found by a court, in a capital

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1 postconviction proceeding or appeal therefrom, to have:

2 (a) Abused a petition for extraordinary relief,
 3 postconviction motion, or appeal therefrom;

4 (b) Raised a claim that a court has found to be
 5 frivolous or procedurally barred or that should have been
 6 raised on the direct appeal;

7 (c) Improperly withheld evidence or testimony; or

8 (d) Adversely affected the orderly administration of
 9 justice.

10 (2) Sanctions the court may and should consider, when
 11 applicable and appropriate in a case, include, but are not
 12 limited to:

13 (a) Dismissal of a pleading;

14 (b) Disciplinary sanctions;

15 (c) A fine; and

16 (d) Any other sanction that is available to the court
 17 under its inherent powers.

18 Section 18. Section 922.108, Florida Statutes, is
 19 created to read:

20 922.108 Sentencing orders in capital cases.--The
 21 sentence of death must not specify any particular method of
 22 execution. The wording or form of the sentencing order shall
 23 not be grounds for reversal of any sentence.

24 Section 19. Paragraph (b) of subsection (6) of section
 25 924.051, Florida Statutes, is repealed.

26 Section 20. The Legislature finds that centralized
 27 case management of capital postconviction actions has the
 28 potential to reduce delays and should be considered. The
 29 Legislature requests that the Florida Supreme Court study the
 30 feasibility of a requirement that all capital postconviction
 31 actions be filed in the Florida Supreme Court as proposed by a

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1 member of the Supreme Court Committee on Postconviction Relief
 2 in Capital Cases (Morris Committee). The Legislature
 3 recognizes that such a reform may substantially enhance
 4 judicial efficiency and may initially necessitate additional
 5 workload funding. If the Supreme Court finds that centralized
 6 case management is a more efficient model, the Court shall
 7 estimate the implementation costs. The Legislature requests
 8 that the Court submit any recommendation to the Governor, the
 9 Senate, and the House of Representatives before January 1,
 10 2001.

11 Section 21. If any provision of this act or the
 12 application thereof to any person or circumstance is held
 13 invalid, the invalidity does not affect other provisions or
 14 applications of the act which can be given effect without the
 15 invalid provision or application, and to this end the
 16 provisions of this act are declared severable.

17 Section 22. This act shall take effect upon becoming a
 18 law, but section 10 shall take effect only if this act is
 19 passed by the affirmative vote of two-thirds of the membership
 20 of each house of the Legislature.

21
 22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28 A bill to be entitled
 29 An act relating to capital offenses; creating
 30 the "Death Penalty Reform Act of 2000";
 31 amending s. 27.702, F.S.; providing limitation

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1 on the filing of postconviction and collateral
2 actions; amending s. 119.19, F.S.; revising
3 provisions relating to capital postconviction
4 public records production; amending s. 922.095,
5 F.S.; revising provisions with respect to
6 grounds for a death warrant; providing a
7 limitation on actions; amending s. 924.055,
8 F.S.; revising provisions with respect to
9 postconviction review in capital cases;
10 providing for legislative findings and intent;
11 creating s. 924.056, F.S.; providing for
12 capital postconviction proceedings for which a
13 sentence of death is imposed on or after the
14 effective date of this act; creating s.
15 924.057, F.S.; providing for a limitation on
16 postconviction cases in which the death
17 sentence was imposed before the effective date
18 of this act; creating s. 924.058, F.S.;
19 providing for capital postconviction claims;
20 creating s. 924.059, F.S.; providing for time
21 limitations on judicial review in capital
22 postconviction actions; repealing Rule 3.850,
23 Florida Rules of Criminal Procedure, relating
24 to the grant of a new trial to the extent it is
25 inconsistent with this act; repealing Rule
26 3.851, Florida Rules of Criminal Procedure,
27 relating to collateral relief after the death
28 sentence has been imposed; repealing Rule
29 3.852, Florida Rules of Criminal Procedure,
30 relating to capital postconviction public
31 records production; amending s. 27.710, F.S.;

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1 providing for the appointment of attorneys to
2 represent persons in collateral actions;
3 amending s. 27.51, F.S.; prohibiting specified
4 public defenders from providing appellate
5 representation for certain persons sentenced to
6 death; amending s. 27.703, F.S.; providing for
7 designation of alternative regional counsel
8 when there is a conflict of interest; revising
9 provisions governing the payment of such
10 counsel; providing for the transfer of funds to
11 be used for contracts with private attorneys
12 and authorizing additional support positions;
13 amending s. 27.709, F.S.; requiring the
14 Commission on Capital Cases to compile and
15 analyze case-tracking reports produced by the
16 Supreme Court; amending s. 27.711, F.S.;
17 revising provisions governing the payment of
18 assigned counsel; providing for review of the
19 billings of assigned counsel; creating s.
20 924.395, F.S.; providing for sanctions against
21 any person within the court's jurisdiction for
22 certain actions taken in capital postconviction
23 proceedings or appeals therefrom; creating s.
24 922.108, F.S.; providing for sentencing orders
25 in capital cases; repealing s. 924.051(6)(b),
26 F.S., which imposes limitations on the filing
27 of motions for collateral or other
28 postconviction relief and on the calling of
29 expert witnesses; requesting the Supreme Court
30 to study the feasibility of requiring all
31 capital postconviction actions to be filed in

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1 the Supreme Court and requesting the Court to
 2 submit its recommendations by a specified date;
 3 providing for severability; providing an
 4 effective date.

5
 6 WHEREAS, it is in the best interest of the
 7 administration of justice that a sentence of death ordered by
 8 the courts of this state be carried out in a manner that is
 9 fair, just, and humane and that conforms to constitutional
 10 requirements, and

11 WHEREAS, in order for capital punishment to be fair,
 12 just, and humane for both the family of victims and for
 13 offenders, there must be a prompt and efficient administration
 14 of justice following any sentence of death ordered by the
 15 courts of this state, and

16 WHEREAS, in order to ensure the fair, just, and humane
 17 administration of capital punishment, it is necessary for the
 18 Legislature to comprehensively address both the method by
 19 which an execution is carried out and the processes by which
 20 an offender sentenced to death may pursue postconviction and
 21 collateral review of the judgment and the sentence of death,

22 NOW, THEREFORE,

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