

By Senators Burt, Brown-Waite, Silver, Campbell, Bronson and Horne

41-769-00

1                                   A bill to be entitled  
2           An act relating to capital offenses; creating  
3           the "Death Penalty Reform Act of 2000";  
4           amending s. 27.702, F.S.; providing limitation  
5           on the filing of postconviction and collateral  
6           actions; amending s. 119.19, F.S.; revising  
7           provisions relating to capital postconviction  
8           public records production; amending s. 922.095,  
9           F.S.; revising provisions with respect to  
10          grounds for a death warrant; providing a  
11          limitation on actions; amending s. 924.055,  
12          F.S.; revising provisions with respect to  
13          postconviction review in capital cases;  
14          providing for legislative findings and intent;  
15          creating s. 924.056, F.S.; providing for  
16          capital postconviction proceedings for which a  
17          sentence of death is imposed on or after the  
18          effective date of this act; creating s.  
19          924.057, F.S.; providing for a limitation on  
20          postconviction cases in which the death  
21          sentence was imposed before the effective date  
22          of this act; creating s. 924.058, F.S.;  
23          providing for capital postconviction claims;  
24          creating s. 924.059, F.S.; providing for time  
25          limitations on judicial review in capital  
26          postconviction actions; repealing Rule 3.850,  
27          Florida Rules of Criminal Procedure, relating  
28          to the grant of a new trial to the extent it is  
29          inconsistent with this act; repealing Rule  
30          3.851, Florida Rules of Criminal Procedure,  
31          relating to collateral relief after the death

1 sentence has been imposed; repealing Rule  
2 3.852, Florida Rules of Criminal Procedure,  
3 relating to capital postconviction public  
4 records production; amending s. 27.710, F.S.;  
5 providing for the appointment of attorneys to  
6 represent persons in collateral actions;  
7 amending s. 27.51, F.S.; prohibiting specified  
8 public defenders from providing appellate  
9 representation for certain persons sentenced to  
10 death; amending s. 27.703, F.S.; providing for  
11 designation of alternative regional counsel  
12 when there is a conflict of interest; revising  
13 provisions governing the payment of such  
14 counsel; providing for the transfer of funds to  
15 be used for contracts with private attorneys  
16 and authorizing additional support positions;  
17 amending s. 27.709, F.S.; requiring the  
18 Commission on Capital Cases to compile and  
19 analyze case-tracking reports produced by the  
20 Supreme Court; amending s. 27.711, F.S.;  
21 revising provisions governing the payment of  
22 assigned counsel; providing for review of the  
23 billings of assigned counsel; creating s.  
24 924.395, F.S.; providing for sanctions against  
25 any person within the court's jurisdiction for  
26 certain actions taken in capital postconviction  
27 proceedings or appeals therefrom; creating s.  
28 922.108, F.S.; providing for sentencing orders  
29 in capital cases; repealing s. 924.051(6)(b),  
30 F.S., which imposes limitations on the filing  
31 of motions for collateral or other

1 postconviction relief and on the calling of  
2 expert witnesses; requesting the Supreme Court  
3 to study the feasibility of requiring all  
4 capital postconviction actions to be filed in  
5 the Supreme Court and requesting the Court to  
6 submit its recommendations by a specified date;  
7 providing for severability; providing an  
8 effective date.

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

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

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

26

27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. This act may be cited as the "Death Penalty  
30 Reform Act of 2000."

31

1           Section 2. Subsection (1) of section 27.702, Florida  
2 Statutes, is amended to read:

3           27.702 Duties of the capital collateral regional  
4 counsel; reports.--

5           (1) The capital collateral regional counsel shall  
6 represent each person convicted and sentenced to death in this  
7 state for the sole purpose of instituting and prosecuting  
8 collateral actions challenging the legality of the judgment  
9 and sentence imposed against such person in the state courts,  
10 federal courts in this state, the United States Court of  
11 Appeals for the Eleventh Circuit, and the United States  
12 Supreme Court. The capital collateral regional counsel and the  
13 attorneys appointed pursuant to s. 27.710 shall file only  
14 those postconviction or collateral actions authorized by  
15 statute.The three capital collateral regional counsels'  
16 offices shall function independently and be separate budget  
17 entities, and the regional counsels shall be the office heads  
18 for all purposes. The Justice Administrative Commission shall  
19 provide administrative support and service to the three  
20 offices to the extent requested by the regional counsels. The  
21 three regional offices shall not be subject to control,  
22 supervision, or direction by the Justice Administrative  
23 Commission in any manner, including, but not limited to,  
24 personnel, purchasing, transactions involving real or personal  
25 property, and budgetary matters.

26           Section 3. Section 119.19, Florida Statutes, is  
27 amended to read:

28           119.19 Capital postconviction public records  
29 production.--

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

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

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

7 (2) The Secretary of State shall establish and  
8 maintain a records repository for the purpose of archiving  
9 capital postconviction public records as provided for in this  
10 section.

11 (3)(a) Upon imposition of a death sentence or upon the  
12 effective date of this act with respect to any case in which a  
13 death sentence has been imposed but the mandate has not yet  
14 been issued in an appeal affirming the sentence, issuance of  
15 the Florida Supreme Court's mandate, the Attorney General  
16 shall promptly provide written notification to the state  
17 attorney who prosecuted the case that a death sentence has  
18 been affirmed. Upon receipt of such notification, the  
19 prosecuting state attorney shall promptly provide written  
20 notification to each law enforcement agency involved in the  
21 case and to the Department of Corrections. If available, the  
22 written notification must include the defendant's date of  
23 birth, sex, race, and police-case numbers included in the  
24 prosecuting attorney's case file.

25 (b) Within 60 ~~90~~ days after receipt of notification,  
26 each law enforcement agency involved in the case and the  
27 prosecuting state attorney who prosecuted the case shall copy,  
28 seal, and deliver to the repository all public records, except  
29 for those filed in the trial court, which were produced in the  
30 investigation or prosecution of the case or, if the records  
31 are confidential or exempt, to the clerk of the court in the

1 county in which the capital case was tried. Each agency shall  
2 bear the costs of its own compliance.

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

7 (c)(b) Within 60 ~~90~~ days after notification, the  
8 Department of Corrections shall copy, seal, and deliver to the  
9 repository or, if the records are confidential or exempt, to  
10 the clerk of the court in the county in which the capital case  
11 was tried all public records determined by the department to  
12 be relevant to the subject matter of a capital postconviction  
13 claim of the person sentenced to death ~~proceeding under Rule~~  
14 ~~3.850 or Rule 3.851~~ and where such production would not be  
15 unduly burdensome for the department. The department shall  
16 bear the costs.

17 (4)(5)(a) The chief law enforcement officer of each  
18 law enforcement agency that was involved in the case, whether  
19 through an investigation, arrest, prosecution, or  
20 incarceration, shall notify the Attorney General upon  
21 compliance with subsection (3) and shall certify that to the  
22 best of his or her knowledge and belief all public records in  
23 possession of the agency or in possession of any employee of  
24 the agency have been copied, indexed, and delivered to the  
25 records repository or, if the records are confidential or  
26 exempt, to the clerk of the court in the county in which the  
27 capital case was tried as required by this section ~~subsection~~  
28 ~~(3)~~.

29 (b) The prosecuting state attorney who prosecuted the  
30 case shall provide written notification to the Attorney  
31 General upon compliance with subsection (3) and shall certify

1 that to the best of his or her knowledge and belief all public  
2 records in his or her possession have been copied, indexed,  
3 and delivered to the records repository or, if the records are  
4 confidential or exempt, to the clerk of the court in the  
5 county in which the capital case was tried as required by this  
6 section subsection (3).

7 (c) The Secretary of Corrections shall provide written  
8 notification to the Attorney General upon compliance with  
9 paragraph (3)(c) subsection (4) and shall certify that to the  
10 best of his or her knowledge and belief all public records in  
11 the department's possession have been copied, indexed, and  
12 delivered to the records repository or, if the records are  
13 confidential or exempt, to the clerk of the court in the  
14 county in which the capital case was tried as required by this  
15 section paragraph (4)(b).

16 (5)(6)(a) Within 60 90 days after the imposition of a  
17 death sentence or upon the effective date of this act with  
18 respect to any case in which a death sentence has been imposed  
19 but the mandate has not yet been issued in an appeal affirming  
20 the sentence issuance of the Florida Supreme Court's mandate  
21 affirming a death sentence, both the public defender or  
22 private counsel for the defendant and the prosecuting state  
23 attorney involved in the case shall provide written  
24 notification to the Attorney General of the name and address  
25 of any person or agency in addition to those persons and  
26 agencies listed in subsection subsections (3) and (4) which  
27 may have information pertinent to the case unless previously  
28 provided to the capital collateral regional counsel or  
29 postconviction private counsel. The Attorney General shall  
30 promptly provide written notification to each identified  
31 person or agency after receiving the information from the

1 public defender, private counsel for the defendant, or  
2 prosecuting state attorney and shall request that all public  
3 records in the possession of the person or agency which  
4 pertain to the case be copied, sealed, and delivered to the  
5 records repository.

6 (b) Within 30 ~~90~~ days after receiving a request for  
7 public records under paragraph (a), the person or agency shall  
8 provide written notification to the Attorney General of  
9 compliance with this subsection and shall certify that to the  
10 best of his or her knowledge and belief all public records  
11 requested have been copied, indexed, and delivered to the  
12 records repository.

13 ~~(6)(7)~~(a) Any public record ~~delivered to the records~~  
14 ~~repository~~ under this section which is confidential or exempt  
15 from the requirements of s. 119.07(1) and s. 24(a), Art. I of  
16 the State Constitution must be separately boxed, without being  
17 redacted, and sealed. The box must be delivered to the clerk  
18 of court in the county in which the capital case was tried.  
19 The outside of the box must clearly identify the public  
20 records as exempt, and the seal may not be broken without an  
21 order of the trial court. The outside of the box must identify  
22 the nature of the public records and the legal basis under  
23 which the public records are exempt.

24 ~~(b) Upon the entry of an appropriate court order,~~  
25 ~~sealed boxes subject to an inspection by the trial court shall~~  
26 ~~be shipped to the respective clerk of court.~~Such a box may be  
27 opened only for an inspection by the trial court in camera and  
28 only after notice giving ~~with a representative of the agency~~  
29 the option to have a representative present at the unsealing  
30 by the court. ~~The moving party shall bear all costs associated~~  
31



1 ~~with the transportation and inspection of such records by the~~  
2 ~~trial court.~~

3       (7)(8)(a) Within 180 ~~90~~ days after a capital  
4 collateral regional counsel or private counsel is appointed to  
5 represent a defendant sentenced to death, or within 30 days  
6 after issuance of the Florida Supreme Court's mandate  
7 affirming a death sentence, whichever is later, the regional  
8 counsel, private counsel, or other counsel who is a member of  
9 The Florida Bar and is authorized by such counsel representing  
10 a defendant may ~~shall~~ send a written demand for additional  
11 public records to each person or agency submitting public  
12 records under subsection ~~subsections~~ (3) ~~and (4)~~ and to each  
13 person or agency identified as having information pertinent to  
14 the case under subsection ~~(5)(6)~~. Should the written demand  
15 include requests for records associated with particular named  
16 individuals, the written demand shall also include a brief  
17 statement describing each named persons role in the case and  
18 relationship to the defendant. Race, sex and date of birth  
19 shall also be included in the demand if the public defender,  
20 private counsel or capital collateral regional counsel has  
21 such information. Each person or agency notified under this  
22 subsection shall, within 60 ~~90~~ days after receipt of the  
23 written demand, deliver to the records repository or, if the  
24 records are confidential or exempt, to the clerk of the court  
25 in the county in which the capital case was tried any  
26 additional public records in the possession of the person or  
27 agency which pertain to the case and shall certify that to the  
28 best of his or her knowledge and belief all additional public  
29 records have been delivered ~~to the Attorney General~~ or, if no  
30 additional public records are found, shall recertify that the  
31 public records previously delivered are complete.

1           (b) Within 25 ~~60~~ days after receiving the written  
2 demand, the agency or person may file an objection in the  
3 trial court alleging that the request is overly broad or  
4 unduly burdensome. Within 30 days after the filing of an  
5 objection, the trial court shall hold a hearing and order an  
6 agency or person to produce additional public records if it  
7 finds each of the following:

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

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

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

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

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

25           ~~(c)(d) If, on the date that this statute becomes~~  
26 ~~effective, a defendant is represented by appointed capital~~  
27 ~~collateral regional counsel or private counsel, and he or she~~  
28 ~~has initiated the public records request process, counsel~~  
29 ~~shall file within 90 days of the effective date of this~~  
30 ~~statute, a written demand for any additional records that have~~  
31 ~~not previously been the subject of a notice to produce. An~~

1 ~~agency may file an objection to such additional demand, and~~  
2 ~~the trial court shall hold a hearing as provided by paragraph~~  
3 ~~(b). This statute shall not be a basis for renewing requests~~  
4 ~~that have been initiated previously or for relitigating issues~~  
5 ~~pertaining to production of public records upon which a court~~  
6 ~~has ruled prior to the effective date of the statute, or for~~  
7 ~~stopping an execution which has been scheduled based upon a~~  
8 ~~warrant executed by the Governor prior to the effective date~~  
9 ~~of the statute.~~

10 (d)~~(e)~~ If, on October 1, 1998 ~~the date that this~~  
11 ~~statute becomes effective~~, the defendant ~~has~~ had a Rule 3.850  
12 motion denied and no Rule 3.850 motion was ~~is~~ pending, no  
13 additional requests shall be made by capital collateral  
14 regional counsel or contracted private counsel until a death  
15 warrant is signed by the Governor and an execution is  
16 scheduled. Within 10 days of the signing of the death warrant,  
17 capital collateral regional counsel or contracted private  
18 counsel may request of a person or agency that the defendant  
19 has previously requested to produce records any records  
20 previously requested to which no objection was raised or  
21 sustained, but which the agency has received or produced since  
22 the previous request or which for any reason the agency has in  
23 its possession and did not produce within 10 days of the  
24 receipt of the previous notice or such shorter time period  
25 ordered by the court to comply with the time for the scheduled  
26 execution. The person or agency shall produce the record or  
27 shall file in the trial court an affidavit stating that it  
28 does not have the requested record or that the record has been  
29 produced previously.

30 (8)~~(9)~~(a) After production of additional public  
31 records or recertification as provided in subsection (7)~~(8)~~,

1 the regional counsel or the private counsel is prohibited from  
2 making any further public records requests under this chapter.  
3 An agency is not required to produce additional public records  
4 except by court order as provided in this subsection.

5 (b) In order to obtain additional public records  
6 beyond those provided under subsection (7)~~(8)~~, the regional  
7 counsel, private counsel, or other counsel who is a member of  
8 The Florida Bar and is authorized by the regional counsel or  
9 private counsel shall file an affidavit in the trial court  
10 which attests that he or she has made a timely and diligent  
11 search of the records repository and specifically identifies  
12 those additional public records that are not at the repository  
13 and are relevant to the subject matter of a capital  
14 postconviction claim ~~proceeding under Rule 3.850 or Rule 3.851~~  
15 or are reasonably calculated to lead to the discovery of  
16 admissible evidence in the prosecution of such claim. The  
17 affiant shall provide a copy of the affidavit to all affected  
18 agencies upon the filing of such affidavit in the trial court.

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

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

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

28 3. The additional public records sought are relevant  
29 to the subject matter of a claim for capital postconviction  
30 relief ~~proceeding under Rule 3.850 or Rule 3.851~~ or appear  
31

1 reasonably calculated to lead to the discovery of admissible  
2 evidence in prosecuting such claim.

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

5 (9)(10) The Secretary of State ~~capital collateral~~  
6 ~~regional counsel or private counsel~~ shall provide the  
7 personnel, supplies, and any necessary equipment used by the  
8 capital collateral regional counsel or private counsel to copy  
9 records held at the records repository.

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

13 (11)(12) The capital collateral regional counsel or  
14 private counsel shall not solicit another person to make a  
15 request for public records on behalf of the regional counsel  
16 or private counsel. The trial court shall impose appropriate  
17 sanctions against any regional counsel or private counsel  
18 found in violation of this subsection.

19 (12)(13) Sixty days after a capital sentence is  
20 carried out, 60 days after a defendant is released from  
21 incarceration following the granting of a pardon or reversal  
22 of the sentence, or 60 days after the defendant has been  
23 resentenced to a term of years, the Attorney General shall  
24 provide written notification to the Secretary of State, who  
25 may then destroy the records held by the records repository  
26 which pertain to that case.

27 (13)(14) This section pertains only to the production  
28 of records for capital postconviction defendants and does not  
29 change or alter any time limitations provided by law governing  
30 capital postconviction claims and actions ~~periods specified in~~  
31 ~~Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.~~

1 Furthermore, this section does not affect, expand, or limit  
2 the production of public records for any purposes other than  
3 use in a capital postconviction proceeding ~~held pursuant to~~  
4 ~~Rule 3.850 or Rule 3.851, Florida Rules of Criminal Procedure.~~  
5 Nothing in this section constitutes grounds to expand the time  
6 limitations or allow any pleading in violation of chapter 924  
7 or to stay an execution or death warrant.

8 Section 4. Section 922.095, Florida Statutes, is  
9 amended to read:

10 922.095 Grounds for death warrant; limitations of  
11 actions.--A person who is convicted and sentenced to death  
12 must pursue all possible collateral remedies within the time  
13 limits provided by statute in state and federal court in a  
14 ~~timely manner. If any court refuses to grant relief in a~~  
15 ~~collateral postconviction proceeding, the convicted person has~~  
16 ~~90 days in which to seek further collateral review. Failure to~~  
17 seek relief within the statutory time limits further  
18 ~~collateral review within the 90-day period~~ constitutes grounds  
19 for issuance of a death warrant under s. 922.052 or s. 922.14.  
20 Any claim not pursued within the statutory time limits is  
21 barred. No claim filed after the time required by law shall be  
22 grounds for a judicial stay of any warrant.

23 Section 5. Section 924.055, Florida Statutes, is  
24 amended to read:

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

27 924.055 Postconviction review in capital cases;  
28 legislative findings and intent.--

29 (1) It is the intent of the Legislature to reduce  
30 delays in capital cases and to ensure that all appeals and  
31 postconviction actions in capital cases are resolved within 5

1 years after the date a sentence of death is imposed in the  
2 circuit court. All capital postconviction actions must be  
3 filed as early as possible after the imposition of a sentence  
4 of death which may be during a direct appeal of the conviction  
5 and sentence. A person sentenced to death or that person's  
6 capital postconviction counsel must file any postconviction  
7 legal action in compliance with all time limitations in this  
8 chapter. Except as expressly allowed by s. 924.056(5), a  
9 person sentenced to death or that person's capital  
10 postconviction counsel may not file more than one  
11 postconviction action in a sentencing court and one appeal  
12 therefrom to the Florida Supreme Court.

13 (2) It is the further intent of the Legislature that  
14 no state resources be expended in violation of this act. In  
15 the event that any state employee or party contracting with  
16 the state violates the provisions of this act, the Attorney  
17 General shall deliver to the Speaker of the House of  
18 Representatives and the President of the Senate a copy of any  
19 court pleading or order that describes or adjudicates a  
20 violation.

21 Section 6. Section 924.056, Florida Statutes, is  
22 created to read:

23 924.056 Commencement of capital postconviction actions  
24 for which sentence of death is imposed on or after the  
25 effective date of this act; limitations on actions.--

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

30 (a) Within 15 days after imposing a sentence of death,  
31 the sentencing court shall appoint the appropriate office of

1 the capital collateral regional counsel or private  
2 postconviction counsel, unless the defendant declines to  
3 accept postconviction legal representation in which case the  
4 state shall not provide postconviction legal representation.  
5 Within 30 days after the appointment, the capital collateral  
6 regional counsel shall file a notice of appearance in the  
7 trial court or a motion to withdraw based on a conflict of  
8 interest or for good cause. The court shall appoint private  
9 counsel pursuant to part IV of chapter 27 in any case in which  
10 the capital collateral regional counsel files a motion to  
11 withdraw, or otherwise informs the court that the capital  
12 collateral regional counsel cannot comply with the provisions  
13 of chapter 924 or in which the court determines that the  
14 agency cannot comply with chapter 924 or other applicable  
15 laws.

16 (b) The defendant who accepts the appointment of  
17 postconviction counsel must cooperate with and assist  
18 postconviction counsel. If the sentencing court finds the  
19 defendant is obstructing the postconviction process, the  
20 defendant shall not be entitled to any further postconviction  
21 legal representation provided by the state. Each attorney  
22 participating in a capital case on behalf of a defendant must  
23 provide all information pertaining to the capital case which  
24 the attorney obtained during the representation of that  
25 defendant to that defendant's capital postconviction counsel.  
26 Postconviction counsel must maintain the confidentiality of  
27 any confidential information received from any attorney for  
28 that defendant and is subject to the same penalties as the  
29 providing attorney for violating confidentiality. If the  
30 defendant requests without good cause that any attorney  
31 appointed under this subsection be removed or replaced, the



1 court shall notify the defendant that no further state  
2 resources may be expended for postconviction representation  
3 for that defendant, unless the defendant withdraws the request  
4 to remove or replace postconviction counsel. If the defendant  
5 does not immediately withdraw his or her request, then any  
6 appointed attorney must be removed from the case and no  
7 further state resources may be expended for the defendant's  
8 postconviction representation. The prosecuting attorney and  
9 the defendant's trial counsel shall provide the defendant or,  
10 if represented, the defendant's capital postconviction counsel  
11 with copies of all pretrial and trial discovery and all  
12 contents of the prosecuting attorney's file, except for  
13 information that the prosecuting attorney has a legal right  
14 under state or federal law to withhold from disclosure.

15 (2) The clerk of the court shall provide a copy of the  
16 record on appeal to the capital postconviction attorney and  
17 the state attorney and Attorney General within 60 days after  
18 the sentencing court appoints postconviction counsel. However,  
19 the court may grant an extension of up to 30 days when  
20 extraordinary circumstances exist.

21 (3)(a) With respect to all capital postconviction  
22 actions commenced after the effective date of this act, a  
23 capital postconviction action is not commenced until the  
24 defendant or the defendant's postconviction counsel files a  
25 fully pled postconviction action in the sentencing court or,  
26 as provided in subsection (4), the Florida Supreme Court. For  
27 the purposes of this subsection, a fully pled capital  
28 postconviction action is one which complies with s. 924.058(2)  
29 or any superseding rule adopted by the Florida Supreme Court.  
30 Except as provided by subsection (4), all capital  
31 postconviction actions shall be barred unless they are

1 commenced within 180 days after the filing of the appellant's  
2 initial brief in the Florida Supreme Court on direct appeal of  
3 the defendant's capital conviction and sentence. The fully  
4 pled postconviction action must raise all meritorious claims  
5 that the defendant's judgment or sentence was entered in  
6 violation of the Constitution or laws of the United States or  
7 the Constitution or the laws of the state, including any claim  
8 of ineffective assistance of trial counsel, allegations of  
9 innocence, or that the state withheld evidence favorable to  
10 the defendant. No claim may be considered in such action which  
11 could have or should have been raised before trial, at trial,  
12 or if preserved on direct appeal. For the purposes of this  
13 subsection, a capital postconviction action is not fully pled  
14 unless it satisfies the requirements of s. 924.058(2) or any  
15 superseding rule of court.

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

18 (c) The pendency of public records requests or  
19 litigation, or the pendency of other litigation, or the  
20 failure of the defendant or the defendant's postconviction  
21 counsel to timely prosecute a case shall not constitute cause  
22 for the court to grant any request for an extension of time or  
23 other delay. No appeal may be taken from a court's ruling  
24 denying such a request for an extension of time or other  
25 delay.

26 (d) The time for commencement, of the postconviction  
27 action, may not be tolled for any reason or cause. All claims  
28 raised by amendment of a defendant's capital postconviction  
29 action are barred if the claims are raised outside the time  
30 limitations provided by statute for the filing of capital  
31 postconviction actions.

1           (4) All capital postconviction actions raising any  
2 claim of ineffective assistance of direct appeal counsel are  
3 barred unless they are commenced in conformity with this  
4 subsection. The defendant or the defendant's capital  
5 postconviction counsel shall file a fully pled postconviction  
6 action in the Florida Supreme Court raising any claim of  
7 ineffective assistance of direct appeal counsel within 45 days  
8 after mandate issues affirming the death sentence in the  
9 direct appeal.

10           (5) Regardless of when a sentence is imposed, all  
11 successive capital postconviction actions are barred unless  
12 commenced by filing a fully pled postconviction action within  
13 90 days after the facts giving rise to the cause of action  
14 were discovered or should have been discovered with the  
15 exercise of due diligence. Such claim shall be barred pursuant  
16 to subsection (3) or s. 924.057 unless the facts underlying  
17 the claim, if proven and viewed in light of the evidence as a  
18 whole, would be sufficient to establish by clear and  
19 convincing evidence that, but for constitutional error, no  
20 reasonable fact finder would have found the defendant guilty  
21 of the underlying offense. Additionally, the facts underlying  
22 this claim must have been unknown to the defendant or his or  
23 her attorney and must be such that they could not have been  
24 ascertained by the exercise of due diligence prior to filing  
25 the earlier postconviction motion. The time period allowed for  
26 filing a successive collateral postconviction action shall not  
27 be grounds for a stay.

28           Section 7. Section 924.057, Florida Statutes, is  
29 created to read:

30  
31

1           924.057 Limitation on postconviction cases in which  
2 the death sentence was imposed before the effective date of  
3 this act.--

4           (1) Nothing in this act shall expand any right or time  
5 period allowed for the prosecution of capital postconviction  
6 claims in any case in which a postconviction action was  
7 commenced or should have been commenced prior to the effective  
8 date of this act.

9           (2) In every case in which mandate has issued in the  
10 Florida Supreme Court concluding at least one capital  
11 postconviction action in the state court system, a successive  
12 capital postconviction action shall be barred on the effective  
13 date of this act, unless the law in effect immediately prior  
14 to the effective date of this act permitted the successive  
15 postconviction action, in which case the action shall be  
16 barred on the date provided in subsection (4).

17           (3) All capital postconviction actions pending on the  
18 effective date of this act shall be barred, and shall be  
19 dismissed with prejudice, unless fully pled in substantial  
20 compliance with s. 924.058, or with any superseding order or  
21 rule, on or before:

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

25           (b) Any earlier date provided by the law, or court  
26 order, in effect immediately prior to the effective date of  
27 this act.

28           (4) In every capital case in which the trial court  
29 imposed the sentence of death before the effective date of  
30 this act, a capital postconviction action shall be barred  
31 unless it is commenced on or before January 8, 2001, or any

1 earlier date provided by the law in effect immediately prior  
2 to the effective date of this act.

3 Section 8. Section 924.058, Florida Statutes, is  
4 created to read:

5 924.058 Capital postconviction claims.--This section  
6 shall regulate the procedures in actions for capital  
7 postconviction relief commencing after the effective date of  
8 this act unless and until such procedures are revised by rule  
9 or rules adopted by the Florida Supreme Court, which  
10 specifically reference this section.

11 (1) The defendant or the defendant's capital  
12 postconviction counsel shall not file more than one capital  
13 postconviction action in the sentencing court, one appeal  
14 therefrom in the Florida Supreme Court, and one original  
15 capital postconviction action alleging the ineffectiveness of  
16 direct appeal counsel in the Florida Supreme Court, except as  
17 expressly allowed by s. 922.056(5).

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

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

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

24 (c) Whether a previous postconviction action has been  
25 filed and, if so, the disposition of all previous claims raised  
26 in postconviction litigation; if a previous action or actions  
27 have been filed, the reason or reasons the claim or claims in  
28 the present motion were not raised in the former action or  
29 actions;

30 (d) The nature of the relief sought;

31

1           (e) A fully detailed allegation of the factual basis  
2 for any claim of legal or constitutional error asserted,  
3 including the attachment of any document supporting the claim,  
4 the name and address of any witness, the attachment of  
5 affidavits of the witnesses or a proffer of the testimony; and

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

8           (3) Any capital postconviction action that does not  
9 comply with any requirement in this section or other  
10 applicable provision in law shall not be considered in any  
11 state court. No amendment of a defendant's capital  
12 postconviction action shall be allowed by the court after the  
13 expiration of the time limitation provided by statute for the  
14 commencement of capital postconviction actions.

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

19           Section 9. Section 924.059, Florida Statutes, is  
20 created to read:

21           924.059 Time limitations and judicial review in  
22 capital postconviction actions.--This section shall regulate  
23 the procedures in actions for capital postconviction relief  
24 commencing after the effective date of this act unless and  
25 until such procedures are revised by rule or rules adopted by  
26 the Florida Supreme Court, which specifically reference this  
27 section.

28           (1) No amendment of a defendant's capital  
29 postconviction action shall be allowed by the court after the  
30 expiration of the time periods provided by statute for the  
31 filing of capital postconviction claims.

1           (2) Within 30 days after the state files its answer,  
2 the sentencing court shall conduct a hearing to determine if  
3 an evidentiary hearing is required, if a hearing has been  
4 requested by the defendant or the defendant's capital  
5 postconviction counsel. Within 30 days thereafter, the court  
6 shall rule whether an evidentiary hearing is required and, if  
7 so, shall schedule an evidentiary hearing to be held within 90  
8 days. If the court determines that the defendant's capital  
9 postconviction action is legally insufficient or the action,  
10 files, and records in the case show that the defendant is not  
11 entitled to relief, the court shall, within 45 days  
12 thereafter, deny the action, setting forth a detailed  
13 rationale therefore, and attaching or referencing such  
14 portions of the record as are necessary to allow for  
15 meaningful appellate review.

16           (3) Within 10 days after the order scheduling an  
17 evidentiary hearing, the defendant or the defendant's capital  
18 postconviction counsel shall disclose the names and addresses  
19 of any potential witnesses not previously disclosed, with  
20 their affidavits or a proffer of their testimony. Upon receipt  
21 of the defendant's disclosure, the state shall have 10 days  
22 within which to provide reciprocal disclosure. If the  
23 defendant intends to offer expert testimony of his or her  
24 mental status, the state shall be entitled to have the  
25 defendant examined by an expert of its choosing. All of the  
26 defendant's mental status claims shall be deemed denied as a  
27 matter of law if the defendant fails to cooperate with the  
28 state's expert. Reports provided by expert witnesses shall be  
29 disclosed by opposing counsel upon receipt.

30           (4) Following the evidentiary hearing, the court shall  
31 order the transcription of the proceeding which shall be filed

1 within 30 days. Within 30 days after receipt of the  
2 transcript, the sentencing court shall issue a final order  
3 granting or denying postconviction relief, making detailed  
4 findings of fact and conclusions of law with respect to any  
5 allegation asserted.

6 (5) An appeal may be taken to the Supreme Court of  
7 Florida within 15 days from the entry of a final order on a  
8 capital postconviction action. No interlocutory appeal shall  
9 be permitted. No motion for rehearing shall be permitted. The  
10 clerk of the court shall promptly serve upon all parties a  
11 copy of the final order.

12 (6) If the sentencing court has denied the capital  
13 postconviction action without an evidentiary hearing, the  
14 appeal to the Florida Supreme Court will be expeditiously  
15 resolved in a summary fashion. On appeal the case shall be  
16 initially reviewed for a determination whether the sentencing  
17 court correctly resolved the defendant's claims without an  
18 evidentiary hearing. If the Florida Supreme Court determines  
19 an evidentiary hearing should have been held, the decision to  
20 remand for an evidentiary hearing may be made by an order  
21 without an opinion. Jurisdiction shall be relinquished to the  
22 trial court for a specified period not to exceed 30 days for  
23 the purpose of conducting an evidentiary hearing on any issue  
24 identified by the Florida Supreme Court's order. Thereafter,  
25 the record shall be supplemented with the hearing transcript.

26 (7) The Florida Supreme Court shall render its  
27 decision within 180 days after receipt of the record on  
28 appeal. If an appeal from a denial of an action for  
29 postconviction relief is denied, the Governor may proceed to  
30 issue a warrant for execution.

31



1           (8) A capital postconviction action filed in violation  
2 of the time limitations provided by statute is barred, and all  
3 claims raised therein are waived. A state court shall not  
4 consider any capital postconviction action filed in violation  
5 of s. 924.056 or s. 924.057. The Attorney General shall  
6 deliver to the Governor, the President of the Senate, and the  
7 Speaker of the House of Representatives a copy of any pleading  
8 or order that alleges or adjudicates any violation of this  
9 provision.

10           Section 10. Rule 3.850, Florida Rules of Criminal  
11 Procedure, relating to the grant of a new trial, is repealed  
12 to the extent that it is inconsistent with this act. Rule  
13 3.851, Florida Rules of Criminal Procedure as amended January  
14 15, 1998, relating to collateral relief after death sentence  
15 has been imposed, is repealed. Rule 3.852, Florida Rules of  
16 Criminal Procedure, relating to capital postconviction public  
17 records production, is repealed.

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

20           27.710 Registry of attorneys applying to represent  
21 persons in postconviction capital collateral proceedings;  
22 certification of minimum requirements; appointment by trial  
23 court.--

24           (4) Each private attorney who is appointed by the  
25 court to represent a capital defendant must enter into a  
26 contract with the Comptroller. If the appointed attorney fails  
27 to execute the contract within 30 days after the date the  
28 contract is mailed to the attorney, the executive director of  
29 the Commission on Capital Cases shall notify the trial court.  
30 The Comptroller ~~executive director of the Commission on~~  
31 ~~Capital Cases~~ shall develop the form of the contract, ~~and the~~

1 ~~Comptroller shall~~ function as contract manager, ~~and shall~~  
2 enforce performance of the terms and conditions of the  
3 contract. By signing such contract, the attorney certifies  
4 that he or she intends to continue the representation under  
5 the terms and conditions set forth in the contract until the  
6 sentence is reversed, reduced, or carried out or until  
7 released by order of the trial court.

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

10       (b) Upon notification by the state attorney or the  
11 Attorney General that:

12       1. Thirty days have elapsed since appointment of the  
13 capital collateral regional counsel and no entry of appearance  
14 has been filed pursuant to s. 924.056; or

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

19       2.(b) A person under sentence of death who was  
20 previously represented by private counsel is currently  
21 unrepresented in a postconviction capital collateral  
22 proceeding, or

23       ~~(c) The trial court has issued an order finding that a~~  
24 ~~year and a day have elapsed since the commencement of the~~  
25 ~~period for filing a motion for postconviction relief under s.~~  
26 ~~924.055(2), and the defendant's complete original motion for~~  
27 ~~postconviction relief has not been filed in the trial court,~~

28  
29 the executive director shall immediately notify the trial  
30 court that imposed the sentence of death that the court must  
31 immediately appoint an attorney, selected from the current

1 registry, to represent such person in collateral actions  
2 challenging the legality of the judgment and sentence in the  
3 appropriate state and federal courts. The court shall have the  
4 authority to strike a notice of appearance filed by a Capital  
5 Collateral Regional Counsel, if the court finds the notice was  
6 not filed in good faith and may so notify the executive  
7 director that the client is no longer represented by the  
8 Office of Capital Collateral Regional Counsel. In making an  
9 assignment, the court shall give priority to attorneys whose  
10 experience and abilities in criminal law, especially in  
11 capital proceedings, are known by the court to be commensurate  
12 with the responsibility of representing a person sentenced to  
13 death. The trial court must issue an order of appointment  
14 which contains specific findings that the appointed counsel  
15 meets the statutory requirements and has the high ethical  
16 standards necessary to represent a person sentenced to death.

17 Section 12. Section 27.51, Florida Statutes, is  
18 amended to read:

19 27.51 Duties of public defender.--

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

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

24 (b) Under arrest for, or is charged with, a  
25 misdemeanor, a violation of chapter 316 which is punishable by  
26 imprisonment, criminal contempt, or a violation of a municipal  
27 or county ordinance in the county court, unless the court,  
28 prior to trial, files in the cause an order of no imprisonment  
29 which states that the defendant will not be imprisoned if he  
30 or she is convicted;

31

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

3 (d) Sought by petition filed in such court to be  
4 involuntarily placed as a mentally ill person or sexually  
5 violent predator or involuntarily admitted to residential  
6 services as a person with developmental disabilities. However,  
7 a public defender does not have the authority to represent any  
8 person who is a plaintiff in a civil action brought under the  
9 Florida Rules of Civil Procedure, the Federal Rules of Civil  
10 Procedure, or the federal statutes, or who is a petitioner in  
11 an administrative proceeding challenging a rule under chapter  
12 120, unless specifically authorized by statute.

13 (2) The court may not appoint the public defender to  
14 represent, even on a temporary basis, any person who is not  
15 indigent. The court, however, may appoint private counsel in  
16 capital cases as provided in s. 925.035.

17 (3) Each public defender shall serve on a full-time  
18 basis and is prohibited from engaging in the private practice  
19 of law while holding office. Assistant public defenders shall  
20 give priority and preference to their duties as assistant  
21 public defenders and shall not otherwise engage in the  
22 practice of criminal law.

23 (4) The public defender for a judicial circuit  
24 enumerated in this subsection shall, after the record on  
25 appeal is transmitted to the appellate court by the office of  
26 the public defender which handled the trial and if requested  
27 by any public defender within the indicated appellate  
28 district, handle all felony appeals to the state and federal  
29 courts required of the official making such request:

30  
31

1 (a) Public defender of the second judicial circuit, on  
2 behalf of any public defender within the district comprising  
3 the First District Court of Appeal.

4 (b) Public defender of the tenth judicial circuit, on  
5 behalf of any public defender within the district comprising  
6 the Second District Court of Appeal.

7 (c) Public defender of the eleventh judicial circuit,  
8 on behalf of any public defender within the district  
9 comprising the Third District Court of Appeal.

10 (d) Public defender of the fifteenth judicial circuit,  
11 on behalf of any public defender within the district  
12 comprising the Fourth District Court of Appeal.

13 (e) Public defender of the seventh judicial circuit,  
14 on behalf of any public defender within the district  
15 comprising the Fifth District Court of Appeal.

16 (5) When the public defender for a judicial circuit  
17 enumerated in subsection (4) has represented at trial a person  
18 sentenced to death, the public defender shall not represent  
19 that person in any direct appellate proceedings. That public  
20 defender shall notify the Florida Supreme Court within 10 days  
21 after filing a notice of appeal, and the Court shall appoint  
22 another public defender enumerated in subsection (4) to  
23 represent the person in any direct appellate proceedings.

24 ~~(6)~~~~(5)~~(a) When direct appellate proceedings prosecuted  
25 by a public defender on behalf of an accused and challenging a  
26 judgment of conviction and sentence of death terminate in an  
27 affirmance of such conviction and sentence, whether by the  
28 Florida Supreme Court or by the United States Supreme Court or  
29 by expiration of any deadline for filing such appeal in a  
30 state or federal court, the public defender shall notify the  
31 accused of his or her rights pursuant to Rule 3.850, Florida

1 Rules of Criminal Procedure, including any time limits  
2 pertinent thereto, and shall advise such person that  
3 representation in any collateral proceedings is the  
4 responsibility of the capital collateral representative. The  
5 public defender shall then forward all original files on the  
6 matter to the capital collateral representative, retaining  
7 such copies for his or her files as may be desired. However,  
8 the trial court shall retain the power to appoint the public  
9 defender or other attorney not employed by the capital  
10 collateral representative to represent such person in  
11 proceedings for relief by executive clemency pursuant to s.  
12 925.035.

13 (b) It is the intent of the Legislature that any  
14 public defender representing an inmate in any collateral  
15 proceedings in any court on June 24, 1985, shall continue  
16 representation of that inmate in all postconviction  
17 proceedings unless relieved of responsibility from further  
18 representation by the court.

19 ~~(7)(6)~~ A sum shall be appropriated to the public  
20 defender of each judicial circuit enumerated in subsection (4)  
21 for the employment of assistant public defenders and clerical  
22 employees and the payment of expenses incurred in cases on  
23 appeal.

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

26 27.703 Conflict of interest and substitute counsel.--

27 (1) The capital collateral regional counsel shall not  
28 accept an appointment or take any other action that will  
29 create a conflict of interest.If, at any time during the  
30 representation of a person ~~two or more persons~~, the capital  
31 collateral regional counsel determines that the continued

1 representation of that person creates a ~~interests of those~~  
2 ~~persons are so adverse or hostile that they cannot all be~~  
3 ~~counseled by the regional counsel or his or her staff without~~  
4 ~~conflict of interest, the sentencing court shall, upon~~  
5 ~~application by the regional counsel, designate another~~  
6 ~~regional counsel and, only if a conflict exists with the other~~  
7 ~~two counsels, appoint one or more members of The Florida Bar~~  
8 ~~to represent one or more of such persons.~~

9 (2) Appointed counsel shall be paid from funds  
10 appropriated to the Comptroller ~~Justice Administrative~~  
11 ~~Commission~~. The hourly rate may not exceed \$100. However,  
12 effective July 1, 1999, all appointments of private counsel  
13 under this section shall be in accordance with ss. 27.710 and  
14 27.711.

15 Section 14. In order to implement the provisions of  
16 section 27.703, Florida Statutes, as amended by this act, the  
17 Justice Administrative Commission shall transfer all  
18 unexpended funds from Specific Appropriation 615 of the  
19 1999-2000 General Appropriations Act to the Administrative  
20 Trust Fund within the Department of Banking and Finance for  
21 disbursement purposes. The Department of Banking and Finance  
22 is authorized to expend such funds transferred by the Justice  
23 Administrative Commission for contracts with private  
24 attorneys. In addition, the Department of Banking and Finance  
25 is authorized to expend up to \$60,000 of such funds for  
26 associated administrative support and two additional positions  
27 are authorized for fiscal year 1999-2000.

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

30 27.709 Commission on Capital Cases.--

31

1           (2)(a) The commission shall review the administration  
2 of justice in capital collateral cases, receive relevant  
3 public input, review the operation of the capital collateral  
4 regional counsel, and advise and make recommendations to the  
5 Governor, Legislature, and Supreme Court.

6           (b) As part of its duties, the commission shall  
7 compile and analyze case-tracking reports produced by the  
8 Supreme Court. In analyzing these reports, the commission  
9 shall develop statistics to identify trends and changes in  
10 case management and case processing, identify and evaluate  
11 unproductive points of delay, and generally evaluate the way  
12 cases are progressing. The commission shall report these  
13 findings to the Legislature by January 1 of each year.

14           (c) In addition, the commission shall receive  
15 complaints regarding the practice of any office of regional  
16 counsel and shall refer any complaint to The Florida Bar, the  
17 State Supreme Court, or the Commission on Ethics, as  
18 appropriate.

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

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

25           (3) An attorney appointed to represent a capital  
26 defendant is entitled to payment of the fees set forth in this  
27 section only upon full performance by the attorney of the  
28 duties specified in this section and approval of payment by  
29 the trial court, and the submission of a payment request by  
30 the attorney, subject to the availability of sufficient  
31 funding specifically appropriated for this purpose. The



1 ~~Comptroller Justice Administrative Commission~~ shall notify the  
2 executive director and the court if it appears that sufficient  
3 funding has not been specifically appropriated for this  
4 purpose to pay any fees which may be incurred. The attorney  
5 shall maintain appropriate documentation, including a current  
6 and detailed hourly accounting of time spent representing the  
7 capital defendant. The fee and payment schedule in this  
8 section is the exclusive means of compensating a  
9 court-appointed attorney who represents a capital defendant.  
10 When appropriate, a court-appointed attorney must seek further  
11 compensation from the Federal Government, as provided in 18  
12 U.S.C. s. 3006A or other federal law, in habeas corpus  
13 litigation in the federal courts.

14 (13) Prior to the filing of a motion for order  
15 approving payment of attorney's fees, costs, or related  
16 expenses, the assigned counsel shall deliver a copy of his  
17 intended billing, together with supporting affidavits and all  
18 other necessary documentation, to the Comptroller's named  
19 contract manager. The contract manager shall have 10 business  
20 days from receipt to review the billings, affidavit, and  
21 documentation for completeness and compliance with contractual  
22 and statutory requirements. If the contract manager objects to  
23 any portion of the proposed billing, the objection and reasons  
24 therefor shall be communicated to the assigned counsel. The  
25 assigned counsel may thereafter file his or her motion for  
26 order approving payment of attorney's fees, costs, or related  
27 expenses together with supporting affidavits and all other  
28 necessary documentation. The motion must specify whether the  
29 Comptroller's contract manager objects to any portion of the  
30 billing or the sufficiency of documentation and, if so, the  
31 reason therefor. A copy of the motion and attachments shall be

1 served on the Comptroller's contract manager, who shall have  
2 standing to file pleadings and appear before the court to  
3 contest any motion for order approving payment. The fact that  
4 the Comptroller's contract manager has not objected to any  
5 portion of the billing or to the sufficiency of the  
6 documentation is not binding on the court, which retains  
7 primary authority and responsibility for determining the  
8 reasonableness of all billings for fees, costs, and related  
9 expenses, subject to statutory limitations.

10 Section 17. Section 924.395, Florida Statutes, is  
11 created to read:

12 924.395 Sanctions.--

13 (1) The Legislature strongly encourages the courts,  
14 through their inherent powers and pursuant to this section, to  
15 impose sanctions against any person within the court's  
16 jurisdiction who is found by a court, in a capital  
17 postconviction proceeding or appeal therefrom, to have:

18 (a) Abused a petition for extraordinary relief,  
19 postconviction motion, or appeal therefrom;

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

23 (c) Improperly withheld evidence or testimony; or

24 (d) Adversely affected the orderly administration of  
25 justice.

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

29 (a) Dismissal of a pleading;

30 (b) Disciplinary sanctions;

31 (c) A fine; and

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

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

5           922.108 Sentencing orders in capital cases.--The  
6 sentence of death must not specify any particular method of  
7 execution. The wording or form of the sentencing order shall  
8 not be grounds for reversal of any sentence.

9           Section 19. Paragraph (b) of subsection (6) of section  
10 924.051, Florida Statutes, is repealed.

11           Section 20. The Legislature finds that centralized  
12 case management of capital postconviction actions has the  
13 potential to reduce delays and should be considered. The  
14 Legislature requests that the Florida Supreme Court study the  
15 feasibility of a requirement that all capital postconviction  
16 actions be filed in the Florida Supreme Court as proposed by a  
17 member of the Supreme Court Committee on Postconviction Relief  
18 in Capital Cases (Morris Committee). The Legislature  
19 recognizes that such a reform may substantially enhance  
20 judicial efficiency and may initially necessitate additional  
21 workload funding. If the Supreme Court finds that centralized  
22 case management is a more efficient model, the Court shall  
23 estimate the implementation costs. The Legislature requests  
24 that the Court submit any recommendation to the Governor, the  
25 Senate, and the House of Representatives before January 1,  
26 2001.

27           Section 21. If any provision of this act or the  
28 application thereof to any person or circumstance is held  
29 invalid, the invalidity does not affect other provisions or  
30 applications of the act which can be given effect without the  
31

1 invalid provision or application, and to this end the  
2 provisions of this act are declared severable.

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

7

8 \*\*\*\*\*

9 LEGISLATIVE SUMMARY

10 Creates the "Death Penalty Reform Act of 2000." Revises  
11 provisions of law relating to criminal postconviction  
12 proceedings to restrict postconviction proceedings in  
13 capital cases where the death sentence is provided.  
14 Revises provisions governing capital postconviction  
15 public records production. Repeals Florida Rules of  
16 Criminal Procedure which are inconsistent with the act.  
17 Prohibits certain public defenders from handling  
18 specified appeals. Provides for the designation of  
19 alternative regional counsel in cases involving a  
20 conflict of interest. Requires the Commission on Capital  
21 Cases to compile and analyze case-tracking reports  
22 produced by the Supreme Court. Provides for review of the  
23 billings of assigned counsel. Provides for sanctions  
24 against certain persons for certain actions taken in  
25 capital postconviction proceedings. (See bill for  
26 details.)  
27  
28  
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31