

By the Committee on Crime & Punishment and Representatives  
 Crist, Ball, Trovillion, Futch, Merchant, Crady, Feeney, Byrd,  
 Maygarden, Cantens, Kilmer, C. Green, Dockery, Argenziano,  
 Detert, Fiorentino, Murman, Waters, Sembler, Wise, Lynn,  
 (Additional Sponsors on Last Printed Page)

1                                    A bill to be entitled  
 2                    An act relating to the death penalty; 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 certain  
15 funds to implement the provisions of s. 27.703,  
16 F.S.; amending s. 27.709, F.S.; requiring the  
17 Commission on Capital Cases to compile and  
18 analyze case-tracking reports produced by the  
19 Supreme Court; amending s. 27.711, F.S.;  
20 revising provisions governing the payment of  
21 assigned counsel; providing for review of the  
22 billings of assigned counsel; amending s.  
23 924.051, F.S.; revising language with respect  
24 to capital cases in which a sentence of death  
25 has been imposed; creating s. 924.395, F.S.;  
26 providing for sanctions against inmates and  
27 inmates' counsel; providing for severability;  
28 providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
31

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

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

5           27.702 Duties of the capital collateral regional  
6 counsel; reports.--

7           (1) The capital collateral regional counsel shall,  
8 unless a motion to withdraw is granted or other order  
9 terminating representation is entered by the state trial  
10 court, represent each person convicted and sentenced to death  
11 in this state for the sole purpose of instituting and  
12 prosecuting collateral actions challenging the legality of the  
13 judgment and sentence imposed against such person in the state  
14 courts, federal courts in this state, the United States Court  
15 of Appeals for the Eleventh Circuit, and the United States  
16 Supreme Court. The appropriate office of capital collateral  
17 regional counsel shall enter an appearance or file a motion to  
18 withdraw pursuant to s. 924.056 not later than 45 days after  
19 the entry of every death sentence imposed after the effective  
20 date of this act, and not later than 45 days after the  
21 effective date of this act in every capital case in which a  
22 death sentence is pending and no postconviction counsel has  
23 appeared. The capital collateral regional counsel and the  
24 attorneys appointed pursuant to s. 27.710 shall file only  
25 those postconviction or collateral actions authorized by  
26 statute.The three capital collateral regional counsels'  
27 offices shall function independently and be separate budget  
28 entities, and the regional counsels shall be the office heads  
29 for all purposes. The Justice Administrative Commission shall  
30 provide administrative support and service to the three  
31 offices to the extent requested by the regional counsels. The

1 three regional offices shall not be subject to control,  
2 supervision, or direction by the Justice Administrative  
3 Commission in any manner, including, but not limited to,  
4 personnel, purchasing, transactions involving real or personal  
5 property, and budgetary matters.

6 Section 3. Section 119.19, Florida Statutes, is  
7 amended to read:

8 119.19 Capital postconviction public records  
9 production.--

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

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

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

18 (2) The Secretary of State shall establish and  
19 maintain a records repository for the purpose of archiving  
20 capital postconviction public records as provided for in this  
21 section.

22 (3)(a) Upon imposition of a death sentence, or upon  
23 the effective date of this act, with respect to any case in  
24 which a death sentence has been imposed but the mandate has  
25 not yet been issued in an appeal affirming the sentence,  
26 ~~issuance of the Florida Supreme Court's mandate, the Attorney~~  
27 ~~General shall promptly provide written notification to the~~  
28 ~~state attorney who prosecuted the case that a death sentence~~  
29 ~~has been affirmed. Upon receipt of such notification, the~~  
30 prosecuting state attorney shall promptly provide written  
31 notification to each law enforcement agency involved in the

1 case and to the Department of Corrections. The written  
2 notification should include, if available, the defendant's  
3 date of birth, sex, race, and all police case numbers included  
4 in the prosecuting attorney's case file.

5 (b) Within 60 ~~90~~ days after receipt of notification,  
6 each law enforcement agency involved in the case and the  
7 prosecuting state attorney who prosecuted the case shall copy,  
8 seal, and deliver to the repository or, if the records are  
9 confidential or exempt, to the clerk of the court in the  
10 county in which the capital case was tried all public records,  
11 except for those filed in the trial court, which were produced  
12 in the investigation or prosecution of the case. Each agency  
13 shall bear the costs of its own compliance. Any public record  
14 which is confidential and exempt from the requirements of s.  
15 119.07(1) and s. 24(a), Art. I of the State Constitution must  
16 be processed pursuant to s. 119.19(6)(b).

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

21 ~~(c)(b)~~ Within 60 ~~90~~ days after notification, the  
22 Department of Corrections shall copy, seal, and deliver to the  
23 repository or, if the records are confidential or exempt, to  
24 the clerk of the court in the county in which the capital case  
25 was tried all public records determined by the department to  
26 be relevant to the subject matter of a capital postconviction  
27 claim of the person sentenced to death ~~proceeding under Rule~~  
28 ~~3.850 or Rule 3.851~~ and where such production would not be  
29 unduly burdensome for the department. The department shall  
30 bear the costs.

31

1           ~~(4)~~(5)(a) The chief law enforcement officer of each  
2 law enforcement agency that was involved in the case, whether  
3 through an investigation, arrest, prosecution, or  
4 incarceration, shall notify the Attorney General upon  
5 compliance with subsection (3) and shall certify that to the  
6 best of his or her knowledge and belief all public records in  
7 possession of the agency or in possession of any employee of  
8 the agency have been copied, indexed, and delivered to the  
9 records repository as required by subsection (3) or, if the  
10 records are confidential or exempt, to the clerk of the court  
11 in the county in which the capital case was tried.

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

21           (c) The Secretary of Corrections shall provide written  
22 notification to the Attorney General upon compliance with  
23 paragraph (3)(c)~~subsection (4)~~ and shall certify that to the  
24 best of his or her knowledge and belief all public records in  
25 the department's possession have been copied, indexed, and  
26 delivered to the records repository as required by paragraph  
27 (3)(c) or, if the records are confidential or exempt, to the  
28 clerk of the court in the county in which the capital case was  
29 tried~~(4)(b)~~.

30           ~~(5)~~(6)(a) Within 60 ~~90~~ days after the imposition of a  
31 death sentence, or after the effective date of this act with

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

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

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

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

21           ~~(7)(8)~~(a) Within 180 ~~90~~ days after a capital  
22 collateral regional counsel or private counsel is appointed to  
23 represent a defendant sentenced to death, or within 30 days  
24 after issuance of the Florida Supreme Court's mandate  
25 affirming a death sentence, whichever is later, the regional  
26 counsel, private counsel, or other counsel who is a member of  
27 The Florida Bar and is authorized by such counsel representing  
28 a defendant may ~~shall~~ send a written demand for additional  
29 public records to each person or agency submitting public  
30 records under subsection ~~subsections~~ (3) ~~and (4)~~ and to each  
31 person or agency identified as having information pertinent to



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

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

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

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

31

1           3. The additional public records sought are relevant  
2 to the subject matter of a capital postconviction claim  
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~~

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

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

1        (11)~~(12)~~ The capital collateral regional counsel or  
2 private counsel shall not solicit another person to make a  
3 request for public records on behalf of the regional counsel  
4 or private counsel. The trial court shall impose appropriate  
5 sanctions against any regional counsel or private counsel  
6 found in violation of this subsection.

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

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

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

29        922.095 Grounds for death warrant; limitations of  
30 actions.--A person who is convicted and sentenced to death  
31 must pursue all possible collateral remedies within the time

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

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

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

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

17 (1) It is the intent of the Legislature to reduce  
18 delays in capital cases and to ensure that all appeals and  
19 postconviction actions in capital cases are resolved within 5  
20 years after the date a sentence of death is imposed in the  
21 circuit court. All capital postconviction actions should be  
22 filed as early as possible after the imposition of a sentence  
23 of death, which may be during a direct appeal of the  
24 conviction and sentence. A person sentenced to death must file  
25 any postconviction legal action in compliance with the  
26 statutes of limitation established in s. 924.056 et seq. or  
27 elsewhere in this chapter. Except as expressly allowed by s.  
28 924.056(5), no person sentenced to death should be permitted  
29 to file more than one postconviction action in a sentencing  
30 court and one appeal therefrom to the Florida Supreme Court.  
31

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 of any violation of the provisions of this act, the  
4 Attorney General shall deliver to the Speaker of the House of  
5 Representatives and the President of the Senate a copy of any  
6 court pleading or order describing or adjudicating a  
7 violation.

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

10       924.056 Commencement of capital postconviction actions  
11 for which sentence of death is imposed on or after the  
12 effective date of this act; limitations on actions.--

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

17       (a) Within 15 days after imposing a sentence of death,  
18 the sentencing court shall appoint the appropriate office of  
19 the capital collateral regional counsel or private  
20 postconviction counsel, unless the defendant waives  
21 postconviction legal representation in which case the state  
22 shall not provide postconviction legal representation. Within  
23 30 days after the appointment, the capital collateral regional  
24 counsel shall file a notice of appearance in the trial court  
25 or a motion to withdraw based on a conflict of interest or  
26 other legal ground. The court shall appoint private counsel  
27 pursuant to part IV of chapter 27 in any case in which the  
28 capital collateral regional counsel files a motion to  
29 withdraw, or otherwise informs the court that the capital  
30 collateral regional counsel cannot comply with the provisions  
31 of chapter 924, or in which the court determines that the

1 agency cannot comply with chapter 924 or other applicable  
2 laws.  
3 (b) The defendant who accepts the appointment of  
4 postconviction counsel must cooperate with and assist  
5 postconviction counsel. If the sentencing court finds the  
6 defendant is obstructing postconviction counsel, the defendant  
7 shall not be entitled to any further postconviction legal  
8 representation provided by the state. Each attorney  
9 participating in a capital case on behalf of a defendant must  
10 provide all information pertaining to the capital case which  
11 the attorney obtained during the representation of that  
12 defendant to that defendant's capital postconviction counsel.  
13 Postconviction counsel must maintain the confidentiality of  
14 any confidential information received from any attorney for  
15 that defendant and is subject to the same penalties as the  
16 providing attorney for violating confidentiality. If the  
17 defendant requests without good cause that any attorney  
18 appointed under this subsection be removed or replaced, the  
19 court shall notify the defendant that no further state  
20 resources may be expended for postconviction representation  
21 for that defendant, unless the defendant withdraws the request  
22 to remove or replace postconviction counsel. If the defendant  
23 does not immediately withdraw his or her request, then any  
24 appointed attorney must be removed from the case and no  
25 further state resources may be expended for the defendant's  
26 postconviction representation. The prosecuting attorney and  
27 the defendant's trial counsel shall provide capital  
28 postconviction counsel with copies of all pretrial and trial  
29 discovery and all contents of the prosecuting attorney's file,  
30 except for information that the prosecuting attorney has a  
31



1 legal right under state and federal law to withhold from  
2 disclosure.

3 (2) The court reporter shall complete the transcript  
4 and the court clerk shall deliver a copy of the record on  
5 appeal within 90 days after sentencing, unless the sentencing  
6 court grants an extension to a date certain based upon  
7 extraordinary circumstances. This subsection shall create no  
8 personal right or cause of action in the interest of a person  
9 sentenced to death but may be a basis for the issuance of  
10 appropriate orders to the reporter or clerk.

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

1 unless it satisfies the requirements of s. 924.058(2) or any  
2 superseding rule of court.

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

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

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

18 (4) All capital postconviction actions raising any  
19 claim of ineffective assistance of direct appeal counsel are  
20 barred unless they are commenced by filing a fully pled  
21 postconviction action in the Florida Supreme Court raising any  
22 claim of ineffective assistance of direct appeal counsel  
23 within 45 days after mandate issues affirming the death  
24 sentence in the direct appeal.

25 (5) Regardless of when a sentence is imposed, all  
26 successive capital postconviction actions are barred unless  
27 commenced by filing a fully pled postconviction action within  
28 90 days after the facts giving rise to the cause of action  
29 were discovered or should have been discovered with the  
30 exercise of due diligence. Such claim shall be barred pursuant  
31 to subsection (3) or s. 924.057 unless the facts underlying

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

12 Section 7. Section 924.057, Florida Statutes, is  
13 created to read:

14 924.057 Limitations on postconviction actions in cases  
15 in which the death sentence was imposed before the effective  
16 date of this act.--This section shall govern all capital  
17 postconviction actions in cases in which the trial court  
18 imposed the sentence of death before the effective date of  
19 this act.

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

25 (2) In every case in which a mandate has been issued  
26 in the Florida Supreme Court concluding at least one capital  
27 postconviction action in the state court system except as  
28 expressly allowed by s. 924.056(5), successive capital  
29 postconviction actions shall be barred on the effective date  
30 of this act, unless the rules or law in effect immediately  
31 prior to the effective date of this act permitted the

1 successive postconviction action, in which case the action  
2 shall be barred on the date provided in subsection (4).

3 (3) All capital postconviction actions pending on the  
4 effective date of this act shall be barred, and shall be  
5 dismissed with prejudice, unless fully pled in substantial  
6 compliance with s. 924.058(2), or with any superseding order  
7 or rule, on or before:

8 (a) The time in which the action would be barred by  
9 this section if the action had not begun prior to the  
10 effective date of this act; or

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

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

20 Section 8. Section 924.058, Florida Statutes, is  
21 created to read:

22 924.058 Capital postconviction claims.--This section  
23 shall regulate the procedures in actions for capital  
24 postconviction relief commencing after the effective date of  
25 this act unless and until such procedures are revised by rule  
26 or rules adopted by the Florida Supreme Court, which  
27 specifically reference this section.

28 (1) On behalf of a person sentenced to death there  
29 shall not be filed more than one capital postconviction action  
30 in the sentencing court, one appeal therefrom in the Florida  
31 Supreme Court, and one original capital postconviction action

1 alleging the ineffectiveness of direct appeal counsel in the  
2 Florida Supreme Court, except as expressly allowed by s.  
3 924.056(5).

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

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

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

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

16 (d) The nature of the relief sought;

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

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

24 (3) Any capital postconviction action that does not  
25 comply with any requirement in this section or other  
26 applicable provision in law shall not be considered in any  
27 state court. No amendment of a defendant's capital  
28 postconviction action shall be allowed by the court after the  
29 expiration of the time limitation provided by statute for the  
30 commencement of capital postconviction actions.

31

1       (4) The prosecuting attorney or Attorney General shall  
2 be allowed to file one response to any capital postconviction  
3 action within 60 days after receipt of the defendant's fully  
4 pled capital postconviction action. A supplemental response  
5 shall be allowed if any amendment to the original action is  
6 made prior to the expiration of the time limitation provided  
7 by statute. The sentencing court may grant the prosecuting  
8 attorney or Attorney General an extension of time upon a  
9 showing of good cause.

10       Section 9. Section 924.059, Florida Statutes, is  
11 created to read:

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

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

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

1 shall, within 45 days thereafter, deny the action, setting  
2 forth a detailed rationale therefore, and attaching or  
3 referencing such portions of the record as are necessary to  
4 allow for meaningful appellate review.

5 (3) Within 10 days after the order scheduling an  
6 evidentiary hearing, the defendant shall disclose the names  
7 and addresses of any potential witnesses not previously  
8 disclosed, with their affidavits or a proffer of their  
9 testimony. Upon receipt of the defendant's disclosure, the  
10 state shall have 10 days within which to provide reciprocal  
11 disclosure. If the defendant intends to offer expert testimony  
12 of his or her mental status, the state shall be entitled to  
13 have the defendant examined by an expert of its choosing. All  
14 of the defendant's mental status claims shall be deemed denied  
15 as a matter of law if the defendant fails to cooperate with  
16 the state's expert. Reports provided by expert witnesses shall  
17 be 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 court shall issue a final order granting or  
22 denying postconviction relief, making detailed findings of  
23 fact and conclusions of law with respect to any allegation  
24 asserted.

25 (5) An appeal may be taken to the Florida Supreme  
26 Court 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

1       (6) If the trial court has denied the capital  
2 postconviction action without an evidentiary hearing, the  
3 appeal to the Florida Supreme Court will be expeditiously  
4 resolved in a summary fashion. On appeal the case shall be  
5 initially reviewed for a determination whether the trial court  
6 correctly resolved the defendant's claims without an  
7 evidentiary hearing. If the Florida Supreme Court determines  
8 an evidentiary hearing should have been held, the decision to  
9 remand for an evidentiary hearing may be made by an order  
10 without an opinion. Jurisdiction shall be relinquished to the  
11 trial court for a specified period not to exceed 30 days for  
12 the 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 this act. The Attorney General shall deliver to the  
25 Governor, the President of the Senate, and the Speaker of the  
26 House of Representatives a copy of any court pleading  
27 describing or any order adjudicating 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



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

6 Section 11. Subsections (4) and (5) of section 27.710,  
7 Florida Statutes, are amended, present subsection (6) of that  
8 section is redesignated as subsection (7), and a new  
9 subsection (6) is added to that section, to read:

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

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

29 (5)(a) Upon the motion of the capital collateral  
30 regional counsel to withdraw pursuant to s. 924.056(1)(a); or  
31

1           **(b)** Upon notification by the state attorney or the  
2 Attorney General that:

3           **1.** Thirty days have elapsed since appointment of the  
4 capital collateral regional counsel and no entry of appearance  
5 has been filed pursuant to s. 924.056; or

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

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

14           ~~(c) The trial court has issued an order finding that a~~  
15 ~~year and a day have elapsed since the commencement of the~~  
16 ~~period for filing a motion for postconviction relief under s.~~  
17 ~~924.055(2), and the defendant's complete original motion for~~  
18 ~~postconviction relief has not been filed in the trial court,~~

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

1 experience and abilities in criminal law, especially in  
2 capital proceedings, are known by the court to be commensurate  
3 with the responsibility of representing a person sentenced to  
4 death. The trial court must issue an order of appointment  
5 which contains specific findings that the appointed counsel  
6 meets the statutory requirements and has the high ethical  
7 standards necessary to represent a person sentenced to death.

8 (6) Upon notification by a capital collateral regional  
9 counsel that a case should be referred to the registry, the  
10 executive director shall immediately notify the trial court  
11 that imposed the sentence of death that the court must  
12 immediately appoint an attorney as provided in subsection (5).

13 Section 12. Section 27.51, Florida Statutes, is  
14 amended to read:

15 27.51 Duties of public defender.--

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

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

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

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

29 (d) Sought by petition filed in such court to be  
30 involuntarily placed as a mentally ill person or sexually  
31 violent predator or involuntarily admitted to residential

1 services as a person with developmental disabilities. However,  
2 a public defender does not have the authority to represent any  
3 person who is a plaintiff in a civil action brought under the  
4 Florida Rules of Civil Procedure, the Federal Rules of Civil  
5 Procedure, or the federal statutes, or who is a petitioner in  
6 an administrative proceeding challenging a rule under chapter  
7 120, unless specifically authorized by statute.

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

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

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

25 (a) Public defender of the second judicial circuit, on  
26 behalf of any public defender within the district comprising  
27 the First District Court of Appeal.

28 (b) Public defender of the tenth judicial circuit, on  
29 behalf of any public defender within the district comprising  
30 the Second District Court of Appeal.

31

1 (c) Public defender of the eleventh judicial circuit,  
2 on behalf of any public defender within the district  
3 comprising the Third District Court of Appeal.

4 (d) Public defender of the fifteenth judicial circuit,  
5 on behalf of any public defender within the district  
6 comprising the Fourth District Court of Appeal.

7 (e) Public defender of the seventh judicial circuit,  
8 on behalf of any public defender within the district  
9 comprising the Fifth District Court of Appeal.

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

18 ~~(6)~~(5)(a) When direct appellate proceedings prosecuted  
19 by a public defender on behalf of an accused and challenging a  
20 judgment of conviction and sentence of death terminate in an  
21 affirmance of such conviction and sentence, whether by the  
22 Florida Supreme Court or by the United States Supreme Court or  
23 by expiration of any deadline for filing such appeal in a  
24 state or federal court, the public defender shall notify the  
25 accused of his or her rights pursuant to Rule 3.850, Florida  
26 Rules of Criminal Procedure, including any time limits  
27 pertinent thereto, and shall advise such person that  
28 representation in any collateral proceedings is the  
29 responsibility of the capital collateral representative. The  
30 public defender shall then forward all original files on the  
31 matter to the capital collateral representative, retaining

1 such copies for his or her files as may be desired. However,  
2 the trial court shall retain the power to appoint the public  
3 defender or other attorney not employed by the capital  
4 collateral representative to represent such person in  
5 proceedings for relief by executive clemency pursuant to s.  
6 925.035.

7 (b) It is the intent of the Legislature that any  
8 public defender representing an inmate in any collateral  
9 proceedings in any court on June 24, 1985, shall continue  
10 representation of that inmate in all postconviction  
11 proceedings unless relieved of responsibility from further  
12 representation by the court.

13 ~~(7)~~~~(6)~~ A sum shall be appropriated to the public  
14 defender of each judicial circuit enumerated in subsection (4)  
15 for the employment of assistant public defenders and clerical  
16 employees and the payment of expenses incurred in cases on  
17 appeal.

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

20 27.703 Conflict of interest and substitute counsel.--

21 (1) The capital collateral regional counsel shall not  
22 accept an appointment or take any other action that will  
23 create a conflict of interest.If, at any time during the  
24 representation of a person ~~two or more persons~~, the capital  
25 collateral regional counsel determines that the continued  
26 representation of that person creates a ~~interests of those~~  
27 ~~persons are so adverse or hostile that they cannot all be~~  
28 ~~counseled by the regional counsel or his or her staff without~~  
29 conflict of interest, the sentencing court shall, upon  
30 application by the regional counsel, designate another  
31 regional counsel and, only if a conflict exists with the other

1 two counsels, appoint one or more members of The Florida Bar  
2 to represent one or more of such persons.

3 (2) Appointed counsel shall be paid from funds  
4 appropriated to the Comptroller ~~Justice Administrative~~  
5 ~~Commission~~. The hourly rate may not exceed \$100. However,  
6 effective July 1, 1999, all appointments of private counsel  
7 under this section shall be in accordance with ss. 27.710 and  
8 27.711.

9 Section 14. In order to implement the provisions of s.  
10 27.703, Florida Statutes, as amended by this act, the Justice  
11 Administrative Commission shall transfer all unexpended funds  
12 from Specific Appropriation 615 of the 1999-2000 General  
13 Appropriations Act to the Administrative Trust fund within the  
14 Department of Banking and Finance for disbursement purposes.  
15 The Department of Banking and Finance is hereby authorized to  
16 expend such funds transferred by the Justice Administrative  
17 Commission for contracts with private attorneys. In addition,  
18 the Department of Banking and finance is hereby authorized to  
19 expend up to \$60,000 of such funds for associated  
20 administrative support and two additional positions are  
21 authorized for fiscal year 1999-2000.

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

24 27.709 Commission on Capital Cases.--

25 (2)(a) The commission shall review the administration  
26 of justice in capital collateral cases, receive relevant  
27 public input, review the operation of the capital collateral  
28 regional counsel, and advise and make recommendations to the  
29 Governor, Legislature, and Supreme Court.

30 (b) As part of its duties, the commission shall  
31 compile and analyze case-tracking reports produced by the

1 Supreme Court. In analyzing these reports, the commission  
2 shall develop statistics to identify trends and changes in  
3 case management and case processing, identify and evaluate  
4 unproductive points of delay, and generally evaluate the way  
5 cases are progressing. The commission shall report these  
6 findings to the Legislature by January 1 of each year.

7 (c) In addition, the commission shall receive  
8 complaints regarding the practice of any office of regional  
9 counsel and shall refer any complaint to The Florida Bar, the  
10 State Supreme Court, or the Commission on Ethics, as  
11 appropriate.

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

15 27.711 Terms and conditions of appointment of  
16 attorneys as counsel in postconviction capital collateral  
17 proceedings.--

18 (3) An attorney appointed to represent a capital  
19 defendant is entitled to payment of the fees set forth in this  
20 section only upon full performance by the attorney of the  
21 duties specified in this section and approval of payment by  
22 the trial court, and the submission of a payment request by  
23 the attorney, subject to the availability of sufficient  
24 funding specifically appropriated for this purpose. The  
25 Comptroller ~~Justice Administrative Commission~~ shall notify the  
26 executive director and the court if it appears that sufficient  
27 funding has not been specifically appropriated for this  
28 purpose to pay any fees which may be incurred. The attorney  
29 shall maintain appropriate documentation, including a current  
30 and detailed hourly accounting of time spent representing the  
31 capital defendant. The fee and payment schedule in this



1 section is the exclusive means of compensating a  
2 court-appointed attorney who represents a capital defendant.  
3 When appropriate, a court-appointed attorney must seek further  
4 compensation from the Federal Government, as provided in 18  
5 U.S.C. s. 3006A or other federal law, in habeas corpus  
6 litigation in the federal courts.

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

1 reasonableness of all billings for fees, costs, and related  
2 expenses, subject to statutory limitations.

3 Section 17. Paragraph (b) of subsection (6) of section  
4 924.051, Florida Statutes, is amended to read:

5 924.051 Terms and conditions of appeals and collateral  
6 review in criminal cases.--

7 (6)

8 (b) In a capital case in which the sentence of death  
9 has been imposed:

10 1. A motion or other pleading for collateral or other  
11 postconviction relief may not be considered except in  
12 compliance with and subject to the limitations of all  
13 provisions of ss. 924.055, 924.056, 924.057, 924.058, and  
14 924.059, and all applicable rules of the court ~~if the motion~~  
15 ~~is filed more than 1 year after the judgment and sentence~~  
16 ~~became final, unless the facts upon which the claim is~~  
17 ~~predicated were unknown to the petitioner or his or her~~  
18 ~~attorney and could not have been ascertained by the exercise~~  
19 ~~of due diligence, or the fundamental constitutional right~~  
20 ~~asserted was not established within the period provided for in~~  
21 ~~this subsection and has been held to apply retroactively.~~

22 2. An expert witness may not be called to testify  
23 unless approved by the court.

24 Section 18. Section 924.395, Florida Statutes, is  
25 created to read:

26 924.395 Sanctions against inmates and inmates'  
27 counsel.--

28 (1) The Legislature strongly encourages the courts,  
29 through their inherent powers and pursuant to this section, to  
30 impose sanctions against an inmate or the inmate's counsel, or  
31

1 both, who are found by a court, in a capital postconviction  
2 proceeding or appeal therefrom, to have:

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

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

8 (c) 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 petition, postconviction motion, or  
14 appeal;

15 (b) Disciplinary sanctions against the inmate's  
16 counsel;

17 (c) A fine imposed on the inmate or the inmate's  
18 counsel, or both; and

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

21 Section 19. If any provision of this act or the  
22 application thereof to any person or circumstance is held  
23 invalid, the invalidity does not affect other provisions or  
24 applications of the act which can be given effect without the  
25 invalid provision or application, and to this end the  
26 provisions of this act are declared severable.

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

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ADDITIONAL SPONSORS

Bense, Goodlette, J. Miller, Morroni, Villalobos, Fasano,  
Harrington and Melvin