

By Representative Wilson

1                                   A bill to be entitled  
2           An act relating to capital collateral  
3           proceedings; amending s. 27.710, F.S.;  
4           providing an additional requirement for  
5           attorneys who may be listed on the statewide  
6           registry of attorneys in private practice who  
7           are available for appointment to represent  
8           persons convicted and sentenced to death in  
9           this state in postconviction capital collateral  
10          proceedings; amending s. 27.711, F.S.; revising  
11          language with respect to fees for representing  
12          certain capital defendants; providing an  
13          effective date.

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

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17           Section 1. Subsection (1) of section 27.710, Florida  
18 Statutes, is amended to read:

19           27.710 Registry of attorneys applying to represent  
20 persons in postconviction capital collateral proceedings;  
21 certification of minimum requirements; appointment by trial  
22 court.--

23           (1) The executive director of the Commission on  
24 Capital Cases shall compile and maintain a statewide registry  
25 of attorneys in private practice who have certified that they  
26 meet the minimum requirements of s. 27.704(2), who are  
27 available for appointment by the court under this section to  
28 represent persons convicted and sentenced to death in this  
29 state in postconviction collateral proceedings, and have  
30 attended within the last year a continuing legal education  
31 program of at least 10 hours' duration devoted specifically to

1 the defense of capital cases, if available. Continuing legal  
2 education programs meeting the requirements of this rule  
3 offered by The Florida Bar or another recognized provider and  
4 approved for continuing legal education credit by The Florida  
5 Bar shall satisfy this requirement. The failure to comply with  
6 this requirement may be cause for removal from the list until  
7 the requirement is fulfilled ~~who are available for appointment~~  
8 ~~by the court under this section to represent persons convicted~~  
9 ~~and sentenced to death in this state in postconviction capital~~  
10 ~~collateral proceedings.~~ To ensure that sufficient attorneys  
11 are available for appointment by the court, when the number of  
12 attorneys on the registry falls below 50, the executive  
13 director shall notify the chief judge of each circuit by  
14 letter and request the chief judge to promptly submit the  
15 names of at least three private attorneys who regularly  
16 practice criminal law in that circuit and who appear to meet  
17 the minimum requirements to represent persons in  
18 postconviction capital collateral proceedings. The executive  
19 director shall send an application to each attorney identified  
20 by the chief judge so that the attorney may register for  
21 appointment as counsel in postconviction capital collateral  
22 proceedings. As necessary, the executive director may also  
23 advertise in legal publications and other appropriate media  
24 for qualified attorneys interested in registering for  
25 appointment as counsel in postconviction capital collateral  
26 proceedings. Not later than September 1 of each year, and as  
27 necessary thereafter, the executive director shall provide to  
28 the Chief Justice of the Supreme Court, the chief judge and  
29 state attorney in each judicial circuit, and the Attorney  
30 General a current copy of its registry of attorneys who are  
31 available for appointment as counsel in postconviction capital

1 collateral proceedings. The registry must be indexed by  
2 judicial circuit and must contain the requisite information  
3 submitted by the applicants in accordance with this section.

4 Section 2. Subsection (4) of section 27.711, Florida  
5 Statutes, is amended to read:

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

9 (4) Upon approval by the trial court, an attorney  
10 appointed to represent a capital defendant under s. 27.710 is  
11 entitled to payment of the following fees by the Comptroller:

12 (a) Regardless of the stage of postconviction capital  
13 collateral proceedings, the attorney is entitled to \$100 per  
14 hour, up to a maximum of \$2,500, after accepting appointment  
15 and filing a notice of appearance.

16 (b) The attorney is entitled to \$100 per hour, up to a  
17 maximum of \$20,000, after timely filing in the trial court the  
18 capital defendant's complete original motion for  
19 postconviction relief under the Florida Rules of Criminal  
20 Procedure. The motion must raise all issues to be addressed by  
21 the trial court. However, an attorney is entitled to fees  
22 under this paragraph if the court schedules a hearing on a  
23 matter that makes the filing of the original motion for  
24 postconviction relief unnecessary or if the court otherwise  
25 disposes of the case.

26 (c) The attorney is entitled to \$100 per hour, up to a  
27 maximum of \$20,000, after the trial court issues a final order  
28 granting or denying the capital defendant's motion for  
29 postconviction relief.

30 (d) The attorney is entitled to \$100 per hour, up to a  
31 maximum of \$20,000, after timely filing in the Supreme Court

1 the capital defendant's brief or briefs that address the trial  
2 court's final order granting or denying the capital  
3 defendant's motion for postconviction relief and the state  
4 petition for writ of habeas corpus.

5 (e) The attorney is entitled to \$100 per hour, up to a  
6 maximum of \$10,000, after the trial court issues an order,  
7 pursuant to a remand from the Supreme Court, which directs the  
8 trial court to hold further proceedings on the capital  
9 defendant's motion for postconviction relief.

10 (f) The attorney is entitled to \$100 per hour, up to a  
11 maximum of \$4,000, after the appeal of the trial court's  
12 denial of the capital defendant's motion for postconviction  
13 relief and the capital defendant's state petition for writ of  
14 habeas corpus become final in the Supreme Court.

15 (g) At the conclusion of the capital defendant's  
16 postconviction capital collateral proceedings in state court,  
17 the attorney is entitled to \$100 per hour, up to a maximum of  
18 \$2,500, after filing a petition for writ of certiorari in the  
19 Supreme Court of the United States.

20 (h) If, at any time, a death warrant is issued the  
21 ~~Supreme Court of the United States accepts for review the~~  
22 ~~capital defendant's collateral challenge of the conviction and~~  
23 ~~sentence of death~~, the attorney is entitled to \$100 per hour,  
24 up to a maximum of \$5,000. This payment shall be full  
25 compensation for attorney's fees and costs for representing  
26 the capital defendant throughout the ~~certiorari~~ proceedings  
27 before the state courts of Florida ~~United States Supreme~~  
28 ~~Court~~.

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30 The hours billed by a contracting attorney under this  
31 subsection may include time devoted to representation of the

1 defendant by another attorney who is qualified under s. 27.710  
2 and who has been designated by the contracting attorney to  
3 assist him or her.

4 Section 3. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

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Revises provisions of law with respect to postconviction capital collateral proceedings to provide a requirement of 10 hours' continuing education each year concerning the defense of capital cases in order to be certified to meet the minimum requirements to be on the statewide registry of attorneys in private practice who are available for appointment to represent persons convicted and sentenced to death in this state in postconviction capital collateral proceedings. Revises language with respect to described attorney's fees. See bill for details.

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