

By Senator Burt

16-1316-02

See HB

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.

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

16
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~~.

29
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

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.