

HB 1847

2004

A bill to be entitled

An act relating to the capital collateral regional counsel; amending s. 27.701, F.S.; extending the term of the capital collateral regional counsel pilot program; providing for legislative determination of converting the pilot program to a permanent program after receipt of Auditor General's review; deleting an expiration date; amending s. 27.702, F.S.; removing authorization for representation by capital collateral regional counsel in federal courts; providing an effective date.

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

Section 1. Subsection (2) of section 27.701, Florida Statutes, is amended to read:

27.701 Capital collateral regional counsels.--

(2) ~~For the 2003-2004 fiscal year only and~~ Notwithstanding the provisions of subsection (1), the responsibilities of the regional office of capital collateral counsel for the northern region of the state shall be met through a pilot program using only attorneys from the registry of attorneys maintained pursuant to s. 27.710. Each attorney participating in the pilot must be qualified to provide representation in federal court. ~~The Auditor General shall present a status report on the implementation of the pilot program to the President of the Senate and the Speaker of the House of Representatives by February 27, 2004.~~ The Auditor General shall also schedule a performance review of the pilot program to determine the effectiveness and efficiency of using attorneys from the

HB 1847

2004

30 registry compared to the capital collateral regional counsels.
 31 The review, at a minimum, shall include comparisons of the
 32 timeliness and costs of the pilot and the counsels and shall be
 33 submitted to the President of the Senate and the Speaker of the
 34 House of Representatives by January 30, 2006 ~~2007~~. The
 35 Legislature may determine whether to convert the pilot program
 36 to a permanent program after receipt of the Auditor General's
 37 review. This subsection expires July 1, 2004.

38 Section 2. Subsections (1) and (3) of section 27.702,
 39 Florida Statutes, as amended by chapter 2003-402, Laws of
 40 Florida, are amended to read:

41 27.702 Duties of the capital collateral regional counsel;
 42 reports.--

43 (1) The capital collateral regional counsel shall
 44 represent each person convicted and sentenced to death in this
 45 state for the sole purpose of instituting and prosecuting
 46 collateral actions challenging the legality of the judgment and
 47 sentence imposed against such person in the state courts,
 48 ~~federal courts in this state, the United States Court of Appeals~~
 49 ~~for the Eleventh Circuit, and the United States Supreme Court.~~

50 The capital collateral regional counsel and the attorneys
 51 appointed pursuant to s. 27.710 shall file only those
 52 postconviction or collateral actions authorized by statute. The
 53 three capital collateral regional counsels' offices shall
 54 function independently and be separate budget entities, and the
 55 regional counsels shall be the office heads for all purposes.
 56 The Justice Administrative Commission shall provide
 57 administrative support and service to the three offices to the
 58 extent requested by the regional counsels. The three regional

HB 1847

2004

59 offices shall not be subject to control, supervision, or
60 direction by the Justice Administrative Commission in any
61 manner, including, but not limited to, personnel, purchasing,
62 transactions involving real or personal property, and budgetary
63 matters.

64 ~~(3)(a) The capital collateral regional counsel shall file~~
65 ~~motions seeking compensation for representation and~~
66 ~~reimbursement for expenses pursuant to 18 U.S.C. s. 3006A when~~
67 ~~providing representation to indigent persons in the federal~~
68 ~~courts, and shall deposit all such payments received into the~~
69 ~~Capital Collateral Trust Fund established for such purpose.~~

70 ~~(b)~~ The court having jurisdiction over any nonindigent or
71 indigent-but-able-to-contribute defendant who has been receiving
72 the services of the capital collateral regional counsel may
73 assess attorney's fees and costs against the defendant at any
74 stage in the proceedings as the court may deem appropriate. The
75 determination of indigence of any defendant shall be made
76 pursuant to s. 27.52. Liability for the costs of such
77 representation may be imposed in the form of a lien against the
78 property of the nonindigent or indigent-but-able-to-contribute
79 defendant, which lien shall be enforceable as provided in s.
80 27.561 or s. 938.29.

81 Section 3. This act shall take effect July 1, 2004.