

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. 27.709, F.S.; expanding the jurisdiction of the Commission on Capital Cases; amending s. 27.711, F.S.; providing for compensation of counsel in the pilot program; providing for limitations on such counsel; amending s. 27.702, F.S.; requiring reports from attorneys participating in the pilot program; 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~~

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30 ~~Senate and the Speaker of the House of Representatives by~~
 31 ~~February 27, 2004.~~ The Auditor General shall ~~also~~ schedule a
 32 performance review of the pilot program to determine the
 33 effectiveness and efficiency of using attorneys from the
 34 registry compared to the capital collateral regional counsels.
 35 The review, at a minimum, shall include comparisons of the
 36 timeliness and costs of the pilot and the counsels and shall be
 37 submitted to the President of the Senate and the Speaker of the
 38 House of Representatives by January 30, 2007. The Legislature
 39 may determine whether to convert the pilot program to a
 40 permanent program after receipt of the Auditor General's review.
 41 ~~This subsection expires July 1, 2004.~~

42 Section 2. Paragraphs (a) and (c) of subsection (2) of
 43 section 27.709, Florida Statutes, as amended by section 86 of
 44 chapter 2003-399, Laws of Florida, are amended to read:

45 27.709 Commission on Capital Cases.--

46 (2)(a) The commission shall review the administration of
 47 justice in capital collateral cases, receive relevant public
 48 input, review the operation of the capital collateral regional
 49 counsel and private counsel appointed pursuant to ss. 27.710 and
 50 27.711, and advise and make recommendations to the Governor,
 51 Legislature, and Supreme Court.

52 (c) In addition, the commission shall receive complaints
 53 regarding the practice of any office of regional counsel and
 54 private counsel appointed pursuant to ss. 27.710 and 27.711 and
 55 shall refer any complaint to The Florida Bar, the State Supreme
 56 Court, or the Commission on Ethics, as appropriate.

57 Section 3. Subsections (3) and (9) of section 27.711,
 58 Florida Statutes, as amended by section 88 of chapter 2003-399,

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59 Laws of Florida, are amended, and subsection (14) is added to
 60 that section, to read:

61 27.711 Terms and conditions of appointment of attorneys
 62 as counsel in postconviction capital collateral proceedings.--

63 (3) An attorney appointed to represent a capital defendant
 64 is entitled to payment of the fees set forth in this section
 65 only upon full performance by the attorney of the duties
 66 specified in this section and approval of payment by the trial
 67 court, and the submission of a payment request by the attorney,
 68 subject to the availability of sufficient funding specifically
 69 appropriated for this purpose. An attorney may not be
 70 compensated under this section for work performed by the
 71 attorney before July 1, 2003, while employed by the northern
 72 regional office of the capital collateral counsel. The Chief
 73 Financial Officer shall notify the executive director and the
 74 court if it appears that sufficient funding has not been
 75 specifically appropriated for this purpose to pay any fees which
 76 may be incurred. The attorney shall maintain appropriate
 77 documentation, including a current and detailed hourly
 78 accounting of time spent representing the capital defendant. The
 79 fee and payment schedule in this section is the exclusive means
 80 of compensating a court-appointed attorney who represents a
 81 capital defendant. When appropriate, a court-appointed attorney
 82 must seek further compensation from the Federal Government, as
 83 provided in 18 U.S.C. s. 3006A or other federal law, in habeas
 84 corpus litigation in the federal courts.

85 (9) An attorney may not represent more than five ~~capital~~
 86 defendants in capital postconviction litigation at any one time.

87 (14) Each attorney participating in the pilot program in

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88 the northern region pursuant to s. 27.701(2), as a condition of
 89 payment pursuant to this section, shall report on the
 90 performance measures adopted by the Legislature for the capital
 91 collateral regional counsels.

92 Section 4. Paragraph (b) of subsection (4) of section
 93 27.702, Florida Statutes, as amended by section 90 of chapter
 94 2003-399, Laws of Florida, is amended to read:

95 27.702 Duties of the capital collateral regional counsel;
 96 reports.--

97 (4)

98 (b) Each capital collateral regional counsel and each
 99 attorney participating in the pilot program in the northern
 100 region pursuant to s. 27.701(2) shall provide a quarterly report
 101 to the President of the Senate, the Speaker of the House of
 102 Representatives, and the Commission on Capital Cases which
 103 details the number of hours worked by investigators and legal
 104 counsel per case and the amounts per case expended during the
 105 preceding quarter in investigating and litigating capital
 106 collateral cases.

107 Section 5. This act shall take effect July 1, 2004; or, if
 108 this act fails to become a law until after that date, it shall
 109 take effect upon becoming a law and shall operate retroactively
 110 to July 1, 2004.