

ENROLLED  
 HB 5011, Engrossed 1

2011 Legislature

1                                   A bill to be entitled  
 2           An act relating to the Commission on Capital Cases;  
 3           repealing s. 27.709, F.S., relating to the creation of the  
 4           Commission on Capital Cases; amending ss. 27.7002, 27.702,  
 5           27.710, and 27.711, F.S.; providing for assumption of  
 6           certain duties of the Commission on Capital Cases by the  
 7           Justice Administrative Commission; conforming provisions  
 8           to changes made by the act; providing an effective date.  
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10   Be It Enacted by the Legislature of the State of Florida:

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 12           Section 1. Section 27.709, Florida Statutes, is repealed.

13           Section 2. Subsections (6) and (7) of section 27.7002,  
 14   Florida Statutes, are amended to read:

15           27.7002   Limitation on collateral representation; lawyer  
 16   disqualification; use of state funds for excess fees not  
 17   authorized.—

18           (6)   The executive director of the Justice Administrative  
 19   Commission ~~on Capital Cases~~ is authorized to permanently remove  
 20   from the registry of attorneys provided in ss. 27.710 and 27.711  
 21   any attorney who seeks compensation for services above the  
 22   amounts provided in s. 27.711.

23           (7)   Any attorney who notifies any court, judge, state  
 24   attorney, the Attorney General, or the executive director of the  
 25   Justice Administrative Commission ~~on Capital Cases~~, that he or  
 26   she cannot provide adequate or proper representation under the  
 27   terms and conditions set forth in s. 27.711 shall be permanently  
 28   disqualified from any attorney registry created under this

## ENROLLED

HB 5011, Engrossed 1

2011 Legislature

29 | chapter unless good cause arises after a change in  
30 | circumstances.

31 | Section 3. Subsection (4) of section 27.702, Florida  
32 | Statutes, is amended to read:

33 | 27.702 Duties of the capital collateral regional counsel;  
34 | reports.—

35 | (4) (a) The capital collateral regional counsel or private  
36 | counsel shall give written notification of each pleading filed  
37 | by that office and the name of the person filing the pleading to  
38 | ~~the Commission on Capital Cases and to~~ the trial court assigned  
39 | to the case.

40 | (b) Each capital collateral regional counsel and each  
41 | attorney participating in the pilot program in the northern  
42 | region pursuant to s. 27.701(2) shall provide a quarterly report  
43 | to the President of the Senate and, the Speaker of the House of  
44 | Representatives, ~~and the Commission on Capital Cases~~ which  
45 | details the number of hours worked by investigators and legal  
46 | counsel per case and the amounts per case expended during the  
47 | preceding quarter in investigating and litigating capital  
48 | collateral cases.

49 | Section 4. Subsections (1) and (4) of section 27.710,  
50 | Florida Statutes, are amended to read:

51 | 27.710 Registry of attorneys applying to represent persons  
52 | in postconviction capital collateral proceedings; certification  
53 | of minimum requirements; appointment by trial court.—

54 | (1) The executive director of the Justice Administrative  
55 | ~~Commission on Capital Cases~~ shall compile and maintain a  
56 | statewide registry of attorneys in private practice who have

## ENROLLED

HB 5011, Engrossed 1

2011 Legislature

57 certified that they meet the minimum requirements of s.  
58 27.704(2), who are available for appointment by the court under  
59 this section to represent persons convicted and sentenced to  
60 death in this state in postconviction collateral proceedings,  
61 and who have attended within the last year a continuing legal  
62 education program of at least 10 hours' duration devoted  
63 specifically to the defense of capital cases, if available.  
64 Continuing legal education programs meeting the requirements of  
65 this rule offered by The Florida Bar or another recognized  
66 provider and approved for continuing legal education credit by  
67 The Florida Bar shall satisfy this requirement. The failure to  
68 comply with this requirement may be cause for removal from the  
69 list until the requirement is fulfilled. To ensure that  
70 sufficient attorneys are available for appointment by the court,  
71 when the number of attorneys on the registry falls below 50, the  
72 executive director shall notify the chief judge of each circuit  
73 by letter and request the chief judge to promptly submit the  
74 names of at least three private attorneys who regularly practice  
75 criminal law in that circuit and who appear to meet the minimum  
76 requirements to represent persons in postconviction capital  
77 collateral proceedings. The executive director shall send an  
78 application to each attorney identified by the chief judge so  
79 that the attorney may register for appointment as counsel in  
80 postconviction capital collateral proceedings. As necessary, the  
81 executive director may also advertise in legal publications and  
82 other appropriate media for qualified attorneys interested in  
83 registering for appointment as counsel in postconviction capital  
84 collateral proceedings. Not later than September 1 of each year,

## ENROLLED

HB 5011, Engrossed 1

2011 Legislature

85 and as necessary thereafter, the executive director shall  
86 provide to the Chief Justice of the Supreme Court, the chief  
87 judge and state attorney in each judicial circuit, and the  
88 Attorney General a current copy of its registry of attorneys who  
89 are available for appointment as counsel in postconviction  
90 capital collateral proceedings. The registry must be indexed by  
91 judicial circuit and must contain the requisite information  
92 submitted by the applicants in accordance with this section.

93 (4) Each private attorney who is appointed by the court to  
94 represent a capital defendant must enter into a contract with  
95 the Chief Financial Officer. If the appointed attorney fails to  
96 execute the contract within 30 days after the date the contract  
97 is mailed to the attorney, the executive director ~~of the~~  
98 ~~Commission on Capital Cases~~ shall notify the trial court. The  
99 Chief Financial Officer shall develop the form of the contract,  
100 function as contract manager, and enforce performance of the  
101 terms and conditions of the contract. By signing such contract,  
102 the attorney certifies that he or she intends to continue the  
103 representation under the terms and conditions set forth in the  
104 contract until the sentence is reversed, reduced, or carried out  
105 or until released by order of the trial court.

106 Section 5. Paragraph (b) of subsection (1) of section  
107 27.711, Florida Statutes, is amended to read:

108 27.711 Terms and conditions of appointment of attorneys as  
109 counsel in postconviction capital collateral proceedings.—

110 (1) As used in s. 27.710 and this section, the term:

111 (b) "Executive director" means the executive director of  
112 the Justice Administrative Commission ~~on Capital Cases~~.

ENROLLED

HB 5011, Engrossed 1

2011 Legislature

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Section 6. This act shall take effect July 1, 2011.