

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

| | | | |
|-----------------------------|--------------------------------------------------|----------------------------------|----------|
| BILL #: | HB 5303 | FINAL HOUSE FLOOR ACTION: | |
| SPONSOR(S): | Justice Appropriations Subcommittee; McBurney | 106 Y's | 8 N's |
| COMPANION BILLS: | SB 2508 | GOVERNOR'S ACTION: | Approved |

SUMMARY ANALYSIS

HB 5303 passed the House on May 2, 2014 and subsequently passed the Senate on May 2, 2014. The bill conforms to the 2014-15 General Appropriations Act by removing the authority of the trial courts to appoint a public defender, criminal conflict and civil regional counsel or other attorneys to represent an indigent defendant in death penalty executive clemency proceedings.

The bill authorizes the Board of Executive Clemency to appoint private counsel to represent a person sentenced to death for relief by executive clemency at such time as the Board deems appropriate for clemency consideration. The bill requires the Board to maintain a list of private counsel available for appointment and provides that attorney compensation may not exceed \$10,000.

The bill specifies that the provision of counsel for executive clemency does not create a statutory right to counsel in such proceedings.

HB 5001 (the General Appropriation Act) removes the funding currently expended by the Justice Administration Commission and the Public Defenders for representing capital clemency cases and transfers \$125,000 to the Board of Executive Clemency's agent, the Parole Commission to compensate attorneys representing persons seeking executive clemency.

The bill was approved by the Governor on June 2, 2014, ch 2014-59, L.O.F., and became effective on July 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Currently, ss. 27.40, 27.51, 27.511, 27.5303, and 27.5304, F.S., authorize the trial court to appoint a public defender, private attorney, or a registry attorney to represent a person who has been convicted and sentenced to death in clemency proceedings.

HB 5303 conforms to the 2014-15 General Appropriations Act by removing the authority of the trial courts to appoint a public defender, criminal conflict and civil regional counsel or other attorneys to represent an indigent defendant in death penalty executive clemency proceedings and giving the Board of Executive Clemency the authority to appoint private counsel in such cases.

The Board of Executive Clemency may appoint private counsel to represent a person sentenced to death for relief by executive clemency at such time as the Board deems appropriate for clemency consideration. The bill requires the Board to maintain a list of private counsel available for appointment and provides that attorney compensation may not exceed \$10,000.

The bill specifies that the provision of counsel for executive clemency does not create a statutory right to counsel in such proceedings.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

HB 5001 (the General Appropriation Act) removes the funding currently expended by the Justice Administration Commission and the Public Defenders for representing capital clemency cases and transfers \$125,000 to the Board of Executive Clemency's agent, the Parole Commission to compensate attorneys representing persons seeking executive clemency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.