

1 A bill to be entitled
 2 An act relating to the Commission on Capital Cases;
 3 creating s. 27.716, F.S.; creating the Commission on
 4 Capital Cases; specifying the membership of the
 5 commission; specifying the length of terms of office;
 6 specifying meeting procedures; specifying that members
 7 are entitled to per diem and travel expenses to be
 8 paid by a specified entity; requiring the Office of
 9 Legislative Services to provide staff support;
 10 providing duties of the commission; amending ss.
 11 27.7002, 27.702, 27.710, and 27.711, F.S.; providing
 12 for assumption of certain duties of the Justice
 13 Administrative Commission by the Commission on Capital
 14 Cases; providing an effective date.

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 16 Be It Enacted by the Legislature of the State of Florida:
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18 Section 1. Subsections (6) and (7) of section 27.7002,
 19 Florida Statutes, are amended to read:

20 27.7002 Limitation on collateral representation; lawyer
 21 disqualification; use of state funds for excess fees not
 22 authorized.—

23 (6) The executive director of the ~~Justice Administrative~~
 24 Commission on Capital Cases is authorized to permanently remove
 25 from the registry of attorneys provided in ss. 27.710 and 27.711

26 | any attorney who seeks compensation for services above the
 27 | amounts provided in s. 27.711.

28 | (7) Any attorney who notifies any court, judge, state
 29 | attorney, the Attorney General, or the executive director of the
 30 | ~~Justice Administrative Commission~~ on Capital Cases, that he or
 31 | she cannot provide adequate or proper representation under the
 32 | terms and conditions set forth in s. 27.711 shall be permanently
 33 | disqualified from any attorney registry created under this
 34 | chapter unless good cause arises after a change in
 35 | circumstances.

36 | Section 2. Subsection (4) of section 27.702, Florida
 37 | Statutes, is amended to read:

38 | 27.702 Duties of the capital collateral regional counsel;
 39 | reports.—

40 | (4) (a) The capital collateral regional counsel or private
 41 | counsel shall give written notification of each pleading filed
 42 | by that office and the name of the person filing the pleading to
 43 | the Commission on Capital Cases and to the trial court assigned
 44 | to the case.

45 | (b) Each capital collateral regional counsel shall provide
 46 | a quarterly report to the President of the Senate, ~~and~~ the
 47 | Speaker of the House of Representatives, and the Commission on
 48 | Capital Cases which details the number of hours worked by
 49 | investigators and legal counsel per case and the amounts per
 50 | case expended during the preceding quarter in investigating and

51 litigating capital collateral cases.

52 Section 3. Subsections (1) and (4) of section 27.710,
53 Florida Statutes, are amended to read:

54 27.710 Registry of attorneys applying to represent persons
55 in postconviction capital collateral proceedings; certification
56 of minimum requirements; appointment by trial court.—

57 (1) The executive director of the ~~Justice Administrative~~
58 Commission on Capital Cases shall compile and maintain a
59 statewide registry of attorneys in private practice who have
60 certified that they meet the minimum requirements of s.
61 27.704(2), who are available for appointment by the court under
62 this section to represent persons convicted and sentenced to
63 death in this state in postconviction collateral proceedings,
64 and who have attended within the last year a continuing legal
65 education program of at least 10 hours' duration devoted
66 specifically to the defense of capital cases, if available.
67 Continuing legal education programs meeting the requirements of
68 this rule offered by The Florida Bar or another recognized
69 provider and approved for continuing legal education credit by
70 The Florida Bar shall satisfy this requirement. The failure to
71 comply with this requirement may be cause for removal from the
72 list until the requirement is fulfilled. To ensure that
73 sufficient attorneys are available for appointment by the court,
74 when the number of attorneys on the registry falls below 50, the
75 executive director shall notify the chief judge of each circuit

76 | by letter and request the chief judge to promptly submit the
77 | names of at least three private attorneys who regularly practice
78 | criminal law in that circuit and who appear to meet the minimum
79 | requirements to represent persons in postconviction capital
80 | collateral proceedings. The executive director shall send an
81 | application to each attorney identified by the chief judge so
82 | that the attorney may register for appointment as counsel in
83 | postconviction capital collateral proceedings. As necessary, the
84 | executive director may also advertise in legal publications and
85 | other appropriate media for qualified attorneys interested in
86 | registering for appointment as counsel in postconviction capital
87 | collateral proceedings. Not later than September 1 of each year,
88 | and as necessary thereafter, the executive director shall
89 | provide to the Chief Justice of the Supreme Court, the chief
90 | judge and state attorney in each judicial circuit, and the
91 | Attorney General a current copy of its registry of attorneys who
92 | are available for appointment as counsel in postconviction
93 | capital collateral proceedings. The registry must be indexed by
94 | judicial circuit and must contain the requisite information
95 | submitted by the applicants in accordance with this section.

96 | (4) Each private attorney who is appointed by the court to
97 | represent a capital defendant must enter into a contract with
98 | the ~~Justice Administrative~~ Commission on Capital Cases. If the
99 | appointed attorney fails to execute the contract within 30 days
100 | after the date the contract is mailed to the attorney, the

101 executive director shall notify the trial court. The ~~Justice~~
102 ~~Administrative~~ Commission on Capital Cases shall function as
103 contract manager and enforce performance of the terms and
104 conditions of the contract. The ~~Justice Administrative~~
105 Commission on Capital Cases shall approve uniform contract forms
106 for use in procuring the services of private court-appointed
107 counsel and uniform procedures and forms for use by a court-
108 appointed attorney in support of billing for attorney fees,
109 costs, and related expenses to demonstrate attorney completion
110 of specified duties. By signing such contract, the attorney
111 certifies that he or she intends to continue the representation
112 under the terms and conditions set forth in the contract until
113 the sentence is reversed, reduced, or carried out or until
114 released by order of the trial court.

115 Section 4. Paragraph (b) of subsection (1) of section
116 27.711, Florida Statutes, is amended to read:

117 27.711 Terms and conditions of appointment of attorneys as
118 counsel in postconviction capital collateral proceedings.—

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

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

122 Section 5. Section 27.716, Florida Statutes, is created to
123 read:

124 27.716 Commission on Capital Cases.—

125 (1) (a) There is created the Commission on Capital Cases,

126 which shall consist of the six following members:

127 1. Two members appointed by the Governor.

128 2. Two members appointed by the President of the Senate
129 from the membership of the Senate. One member shall be a member
130 of the majority party and one member shall be a member of the
131 minority party.

132 3. Two members appointed by the Speaker of the House of
133 Representatives from the membership of the House of
134 Representatives. One member shall be a member of the majority
135 party and one member shall be a member of the minority party.

136 (b) The chair of the commission shall be selected by the
137 members for a term of 1 year.

138 (c) The commission shall meet quarterly and other meetings
139 may be called by the chair upon giving at least 7 days' notice
140 to all members and the public.

141 (d) Members of the commission are entitled to per diem and
142 travel expenses to be paid by the appointing entity.

143 (e) Members of the commission shall be appointed to serve
144 terms of 4 years each, except that a member's term shall expire
145 upon leaving office as a member of the Senate or the House of
146 Representatives.

147 (f) The Office of Legislative Services shall provide staff
148 support for the commission.

149 (2) (a) The commission shall review the administration of
150 justice in capital collateral cases, receive relevant public

151 input, review the operation of the capital collateral regional
152 counsel and private counsel appointed pursuant to ss. 27.710 and
153 27.711, and advise and make recommendations to the Governor,
154 Legislature, and Supreme Court.

155 (b) As part of its duties, the commission shall compile
156 and analyze case-tracking reports produced by the Supreme Court.
157 In analyzing these reports, the commission shall develop
158 statistics to identify trends and changes in case management and
159 case processing, identify and evaluate unproductive points of
160 delay, and generally evaluate the way cases are progressing. The
161 commission shall report these findings to the Legislature by
162 January 1 annually.

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

168 Section 6. This act shall take effect July 1, 2019.