

By Senator Broxson

1-01219A-20

20201736__

1 A bill to be entitled
2 An act relating to criminal proceedings; providing a
3 short title; amending s. 918.015, F.S.; specifying
4 speedy trial periods for persons accused as
5 perpetrators of acts of mass violence; defining terms;
6 providing for extension of time periods if certain
7 conditions are met; providing construction; requesting
8 the Supreme Court to adopt certain rules for the cases
9 of persons accused as perpetrators of acts of mass
10 violence concerning speedy trial periods, docketing of
11 capital appeals, habeas proceedings, and screening of
12 postconviction claims; amending s. 922.052, F.S.;
13 requiring the clerk of the Florida Supreme Court to
14 provide a specified notice to the Governor concerning
15 persons sentenced to death for incidents of mass
16 violence; revising requirements for issuance of death
17 warrants for persons convicted as perpetrators of acts
18 of mass violence; amending s. 924.056, F.S.; requiring
19 that the Supreme Court make certain reports concerning
20 the cases of persons accused as perpetrators of acts
21 of mass violence; amending s. 27.710, F.S.; conforming
22 a cross-reference; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. This act may be cited as the "Justice for
27 Victims of Mass Violence Act."

28 Section 2. Section 918.015, Florida Statutes, is amended to
29 read:

1-01219A-20

20201736__

30 918.015 Right to speedy trial.—

31 (1)(a) In all criminal prosecutions the state and the
32 defendant shall each have the right to a speedy trial.

33 (b)1. A defendant charged with an offense as a perpetrator
34 of an incident of mass violence shall be brought to trial within
35 175 days after being taken into custody by the state or 60 days
36 after being charged with such an offense by indictment or
37 information, whichever is earlier.

38 2. As used in this paragraph:

39 a. The term "incident of mass violence" means an event or
40 series of events with no intervening cooling-off period which
41 involve intentional violent criminal acts, including shootings
42 or acts of terrorism, which:

43 (I) Target groups of defenseless persons and result in
44 death or injury to at least four persons.

45 (II) Cause physical, emotional, or psychological injury to
46 a community.

47
48 An incident of mass violence is often, but need not be, designed
49 to achieve political, economic, or social objectives.

50 b. The term "victim" means a person killed or injured
51 during an incident of mass violence, not including the
52 perpetrator.

53 3. The periods of time established in subparagraph 1. may
54 be extended for exceptional circumstances, provided the period
55 of time requested to be extended has not expired at the time the
56 extension was procured. A request for extension under this
57 subparagraph may not be granted without a hearing at which
58 victims and their families may be heard. Exceptional

1-01219A-20

20201736__

59 circumstances do not include general congestion of the court's
60 docket, lack of diligent preparation, failure to obtain
61 available witnesses, or other avoidable or foreseeable delays.

62 Exceptional circumstances are those that, as a matter of
63 substantial justice to the defendant or the state or both,
64 require an order by the court. Exceptional circumstances
65 include:

66 a. Unexpected illness, unexpected incapacity, or
67 unforeseeable and unavoidable absence of a person whose presence
68 or testimony is uniquely necessary for a full and adequate
69 trial.

70 b. A showing by the defendant or the state that the case is
71 so unusual and so complex, because of the number of defendants
72 or the nature of the prosecution or otherwise, that it is
73 unreasonable to expect adequate investigation or preparation
74 within the periods of time established in subparagraph 1.

75 c. A showing by the defendant or the state that specific
76 evidence or testimony is not available despite diligent efforts
77 to secure it, but will become available at a later time.

78 d. A showing by the defendant or the state of the necessity
79 for delay grounded on developments that could not have been
80 anticipated and will materially affect the trial.

81 e. A showing that a delay is necessary to accommodate a
82 codefendant, when there is reason not to sever the cases to
83 proceed promptly with trial of the defendant.

84 f. A showing by the state that the defendant has caused
85 major delay or disruption of preparation of proceedings, as by
86 preventing the attendance of witnesses or otherwise.

87 4. This paragraph provides no substantive rights for a

1-01219A-20

20201736__

88 defendant if the trial does not commence within the applicable
89 period. A violation of this paragraph does not provide grounds
90 to have a conviction or sentence set aside or to create a cause
91 of action for money damages against the state, a county, a
92 municipality, or any agency, public official, or employee
93 thereof.

94 (2) The Supreme Court shall, by rule ~~of said court~~, provide
95 procedures through which the right to a speedy trial as
96 guaranteed by subsection (1) and by s. 16, Art. I of the State
97 Constitution, shall be realized. The Supreme Court is requested
98 to adopt any rules necessary to implement paragraph (1)(b) to
99 the extent that it is procedural.

100 Section 3. The Supreme Court is requested to adopt rules
101 for practice and procedure for all courts to require courts to
102 give capital appeals and habeas proceedings in cases of
103 defendants convicted as perpetrators of incidents of mass
104 violence, as defined in s. 918.015(1)(b)2., Florida Statutes,
105 priority over all other cases on their dockets.

106 Section 4. The Supreme Court is requested to create rules
107 of procedure ensuring that only meritorious claims are
108 entertained in successive postconviction proceedings in a case
109 of a defendant convicted as a perpetrator of an incident of mass
110 violence, as defined in s. 918.015(1)(b)2., Florida Statutes.
111 The court is requested to consider adopting a rule of procedure
112 for such cases requiring trial courts to perform an initial
113 screening of all successive postconviction motions within 30
114 days after briefing is completed and to summarily dismiss any
115 successive postconviction motion that clearly contains solely
116 nonmeritorious claims within 30 days thereafter.

1-01219A-20

20201736__

117 Section 5. Subsection (2) of section 922.052, Florida
118 Statutes, is amended to read:

119 922.052 Issuance of warrant of execution.—

120 (2) (a) The clerk of the Florida Supreme Court shall inform
121 the Governor in writing certifying that a person convicted and
122 sentenced to death, ~~before or after the effective date of the~~
123 ~~act,~~ has:

124 1. Completed such person's direct appeal and initial
125 postconviction proceeding in state court and habeas corpus
126 proceeding and appeal therefrom in federal court; or

127 2. Allowed the time permitted for filing a habeas corpus
128 petition in federal court to expire.

129 (b) Notwithstanding paragraph (a), the clerk of the Florida
130 Supreme Court shall inform the Governor in writing certifying
131 that a person convicted as a perpetrator of an incident of mass
132 violence, as defined in s. 918.015(1)(b)2., and sentenced to
133 death has completed such person's direct appeal and initial
134 postconviction proceeding in state court.

135 (c) ~~(b)~~ Within 30 days after receiving the letter of
136 certification from the clerk of the Florida Supreme Court, the
137 Governor shall issue a warrant for execution if the executive
138 clemency process has concluded, directing the warden to execute
139 the sentence within 180 days, at a time designated in the
140 warrant.

141 (d) ~~(e)~~ If, in the Governor's sole discretion, the clerk of
142 the Florida Supreme Court has not complied with ~~the provisions~~
143 ~~of~~ paragraph (a) or paragraph (b) with respect to any person
144 sentenced to death, the Governor may sign a warrant of execution
145 for such person where the executive clemency process has

1-01219A-20

20201736__

146 concluded.

147 Section 6. Subsection (1) of section 924.056, Florida
148 Statutes, is amended to read:

149 924.056 ~~Capital postconviction proceedings; Reporting~~
150 requirements; capital cases; incidents of mass violence.-

151 (1) The Supreme Court shall annually report to the Speaker
152 of the House of Representatives and the President of the Senate:

153 (a) The status of each capital case in which a
154 postconviction action has been filed that has been continuously
155 pending for more than 3 years. The report must include the name
156 of the state court judge involved in the case.

157 (b) The status of each case involving a defendant charged
158 as a perpetrator of an incident of mass violence, as defined in
159 s. 918.015(1)(b)2., in which:

160 1. The defendant was not brought to trial within 175 days
161 after being taken into custody by the state or within 60 days
162 after being charged with a crime of mass violence by indictment
163 or information, whichever is earlier;

164 2. A continuance was granted by the trial court; or

165 3. An appeal, habeas petition, postconviction motion, or
166 successive postconviction motion has been continuously pending
167 in any court for more than 1 year.

168
169 The report shall include the reason for delay in each case.

170 Section 7. Subsection (5) of section 27.710, Florida
171 Statutes, is amended to read:

172 27.710 Registry of attorneys applying to represent persons
173 in postconviction capital collateral proceedings; certification
174 of minimum requirements; appointment by trial court.-

1-01219A-20

20201736__

175 (5) (a) Upon the motion of the capital collateral regional
176 counsel to withdraw ~~pursuant to s. 924.056(1)(a)~~; or

177 (b) Upon notification by the state attorney or the Attorney
178 General that:

179 1. Thirty days have elapsed since appointment of the
180 capital collateral regional counsel and no entry of appearance
181 has been filed ~~pursuant to s. 924.056~~; or

182 2. A person under sentence of death who was previously
183 represented by private counsel is currently unrepresented in a
184 postconviction capital collateral proceeding,

185
186 the executive director shall immediately notify the trial court
187 that imposed the sentence of death that the court must
188 immediately appoint an attorney, selected from the current
189 registry, to represent such person in collateral actions
190 challenging the legality of the judgment and sentence in the
191 appropriate state and federal courts. The court shall have the
192 authority to strike a notice of appearance filed by a Capital
193 Collateral Regional Counsel, if the court finds the notice was
194 not filed in good faith and may so notify the executive director
195 that the client is no longer represented by the Office of
196 Capital Collateral Regional Counsel. In making an assignment,
197 the court shall give priority to attorneys whose experience and
198 abilities in criminal law, especially in capital proceedings,
199 are known by the court to be commensurate with the
200 responsibility of representing a person sentenced to death. The
201 trial court must issue an order of appointment which contains
202 specific findings that the appointed counsel meets the statutory
203 requirements and has the high ethical standards necessary to

1-01219A-20

20201736__

204 represent a person sentenced to death.

205 Section 8. This act shall take effect October 1, 2020.