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1 A bill to be entitled
2 An act relating to postconviction capital case
3 proceedings; providing a short title; amending s.
4 27.40, F.S.; providing that counsel is not required to
5 be appointed in clemency proceedings filed by persons
6 sentenced to death; amending s. 27.51, F.S.; removing
7 the trial court's authority to appoint the public
8 defender to represent a person sentenced to death in
9 clemency proceedings; amending s. 27.51, F.S.;
10 contingent upon adoption of a specified constitutional
11 amendment, replacing a reference to a rule of criminal
12 procedure with a reference to a statute; amending s.
13 27.511, F.S.; removing the trial court's authority to
14 appoint the office of criminal conflict and civil
15 regional counsel or other attorney to represent a
16 person sentenced to death in clemency proceedings;
17 amending s. 27.511, F.S.; replacing a reference to a
18 rule of criminal procedure with a reference to a
19 statute; amending s. 27.5303, F.S.; removing a court's
20 authority to appoint the public defender or other
21 attorney to represent a person sentenced to death in
22 clemency proceedings; amending s. 27.5304, F.S.,
23 specifying that a person may be compensated for
24 representing a person sentenced to death who submits
25 an application for executive clemency before July 1,
26 2013; repealing s. 27.701(2), F.S., relating to a
27 pilot project using registry attorneys to provide
28 capital collateral counsel services in the northern

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29 | region of the Capital Collateral Regional Counsel;
30 | reenacting s. 27.702(1), F.S., relating to duties of
31 | capital collateral regional counsel; amending s.
32 | 27.702, F.S.; conforming provisions to changes made by
33 | the act; amending s. 27.703, F.S.; requiring the court
34 | to hold a hearing when a conflict of interest in a
35 | postconviction capital case proceeding is alleged;
36 | amending s. 27.708, F.S.; specifying that
37 | postconviction capital case attorneys comply with
38 | statutory requirements; amending s. 27.7081, F.S.;
39 | providing definitions; establishing procedures for
40 | public records production in postconviction capital
41 | cases proceedings; amending s. 27.7091, F.S.; deleting
42 | language recommending that the Florida Supreme Court
43 | adopt certain rules relating to postconviction capital
44 | case proceedings; amending s. 27.711, F.S.; deleting
45 | obsolete language relating to the northern regional
46 | office of the capital collateral regional counsel;
47 | amending s. 27.711, F.S., removing references to rules
48 | of criminal procedure that relate to postconviction
49 | capital case proceedings; amending s. 922.095, F.S.;
50 | specifying that postconviction claims in capital cases
51 | that are not pursued within statutory time limits are
52 | barred; reenacting s. 922.108, F.S.; relating to
53 | requirements for orders for a sentence of death may
54 | not specify any particular method of execution;
55 | amending s. 924.055, F.S.; revising legislative intent
56 | regarding postconviction proceedings in capital cases;

57 | amending s. 924.056, F.S.; establishing procedures for
58 | initial postconviction motions in capital cases;
59 | providing time limits for motions; specifying
60 | contents; providing for hearings; amending s. 924.057,
61 | F.S.; providing that postconviction proceedings in
62 | capital cases in which conviction and sentence of
63 | death have been affirmed on direct appeal before July
64 | 1, 2015, are governed by the rules and laws in effect
65 | before that date; deleting language concerning cases
66 | before the effective date of a prior act; amending s.
67 | 924.058, F.S.; establishing procedures for successive
68 | postconviction motions in capital cases; specifying
69 | contents; providing for hearings and procedures;
70 | creating s. 924.0581, F.S.; establishing procedures
71 | for the appeal of capital case postconviction motions
72 | to the Florida Supreme Court; creating s. 924.0585,
73 | F.S.; requiring the Florida Supreme Court to annually
74 | report certain information regarding capital
75 | postconviction cases to the Legislature; requiring
76 | courts to report specified findings of ineffective
77 | assistance of counsel to The Florida Bar; requiring
78 | The Florida Bar to annually report to the Legislature
79 | certain information about attorneys found to have
80 | provided ineffective assistance; amending s. 924.0585,
81 | F.S.; specifying that capital postconviction actions
82 | filed in violation of statutory timeframes are barred
83 | and claims raised therein waived; amending s. 924.059,
84 | F.S.; requiring the court to hold a hearing when a

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85 conflict of interest in a postconviction capital case
86 proceeding is alleged; providing timeframes relating
87 to such hearing; creating s. 924.0591, F.S.;
88 establishing procedures for capital case
89 postconviction proceedings when a prisoner is
90 incompetent to proceed; creating s. 924.0592, F.S.;
91 establishing procedures for capital case
92 postconviction proceedings after a death warrant has
93 been issued; creating s. 924.0593, F.S.; establishing
94 procedures for capital case postconviction proceedings
95 when a prisoner is insane at the time of scheduled
96 execution; creating s. 924.0594, F.S.; establishing
97 procedures for capital case postconviction proceedings
98 when a prisoner seeks to dismiss postconviction
99 proceedings and postconviction counsel; providing for
100 severability; providing effective dates and a
101 contingent effective date.

102
103 WHEREAS, it is in the best interest of the administration
104 of justice that a sentence of death ordered by a court of this
105 state be carried out in a manner that is fair, just, humane, and
106 conforms to constitutional requirements, and

107 WHEREAS, in order for capital punishment to be fair, just,
108 and humane for both the family of victims and for offenders,
109 there must be a prompt and efficient administration of justice
110 after any sentence of death ordered by the courts of this state,
111 and

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112 WHEREAS, in order to ensure the fair, just, and humane
 113 administration of capital punishment, it is necessary for the
 114 Legislature to comprehensively address the processes by which an
 115 offender sentenced to death may pursue postconviction and
 116 collateral review of the judgment and the sentence of death, and

117 WHEREAS, the Death Penalty Reform Act of 2000, chapter
 118 2000-3, Laws of Florida, was designed to accomplish these
 119 objectives and was passed by the Legislature and approved by the
 120 Governor of Florida in January of 2000, and

121 WHEREAS, the Death Penalty Reform Act of 2000, chapter
 122 2000-3, Laws of Florida, was declared unconstitutional by the
 123 Florida Supreme Court three months after becoming a law in *Allen*
 124 *v. Butterworth*, 756 So.2d 52 (Fla. 2000), as being an
 125 encroachment on the court's "exclusive power to 'adopt rules for
 126 the practice and procedure in all courts,'" and

127 WHEREAS, the Constitution of the State of Florida has been
 128 amended to require postconviction and collateral review of
 129 capital cases resulting in a sentence of death to be governed
 130 by, and to the extent provided by, general law, and

131 WHEREAS, provisions of the Death Penalty Reform Act of 2000
 132 which were held unconstitutional may now be reenacted, while
 133 other provisions can be modified, and new provisions added to
 134 ensure a prompt and efficient administration of justice
 135 following any sentence of death, NOW, THEREFORE,

136

137 Be It Enacted by the Legislature of the State of Florida:

138

139 Section 1. This act may be cited as the "Timely Justice

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140 Act of 2013."

141 Section 2. Effective July 1, 2013, subsection (1) of
142 section 27.40, Florida Statutes, is amended to read:

143 27.40 Court-appointed counsel; circuit registries; minimum
144 requirements; appointment by court.—

145 (1) Counsel shall be appointed to represent any individual
146 in a criminal or civil proceeding entitled to court-appointed
147 counsel under the Federal or State Constitution or as authorized
148 by general law. Such proceedings do not include proceedings for
149 relief by executive clemency in which the application for
150 executive clemency was filed by a person who is convicted and
151 sentenced to death on or after July 1, 2013. The court shall
152 appoint a public defender to represent indigent persons as
153 authorized in s. 27.51. The office of criminal conflict and
154 civil regional counsel shall be appointed to represent persons
155 in those cases in which provision is made for court-appointed
156 counsel but the public defender is unable to provide
157 representation due to a conflict of interest or is not
158 authorized to provide representation.

159 Section 3. Effective July 1, 2013, paragraph (a) of
160 subsection (5) of section 27.51, Florida Statutes, is amended to
161 read:

162 27.51 Duties of public defender.—

163 (5) (a) When direct appellate proceedings prosecuted by a
164 public defender on behalf of an accused and challenging a
165 judgment of conviction and sentence of death terminate in an
166 affirmance of such conviction and sentence, whether by the
167 Florida Supreme Court or by the United States Supreme Court or

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168 | by expiration of any deadline for filing such appeal in a state
169 | or federal court, the public defender shall notify the accused
170 | of his or her rights pursuant to Rule 3.850, Florida Rules of
171 | Criminal Procedure, including any time limits pertinent thereto,
172 | and shall advise such person that representation in any
173 | collateral proceedings is the responsibility of the capital
174 | collateral regional counsel. The public defender shall then
175 | forward all original files on the matter to the capital
176 | collateral regional counsel, retaining such copies for his or
177 | her files as may be desired. However, for clemency applications
178 | pending or filed before July 1, 2013, the trial court shall
179 | retain the power to appoint the public defender or other
180 | attorney not employed by the capital collateral regional counsel
181 | to represent such person in proceedings for relief by executive
182 | clemency pursuant to ss. 27.40 and 27.5303.

183 | Section 4. Paragraph (a) of subsection (5) of section
184 | 27.51, Florida Statutes, as amended by this act, is amended to
185 | read:

186 | 27.51 Duties of public defender.—

187 | (5) (a) When direct appellate proceedings prosecuted by a
188 | public defender on behalf of an accused and challenging a
189 | judgment of conviction and sentence of death terminate in an
190 | affirmance of such conviction and sentence, whether by the
191 | Florida Supreme Court or by the United States Supreme Court or
192 | by expiration of any deadline for filing such appeal in a state
193 | or federal court, the public defender shall notify the accused
194 | of his or her rights pursuant to s. 924.056 ~~Rule 3.850, Florida~~
195 | ~~Rules of Criminal Procedure,~~ including any time limits pertinent

196 thereto, and shall advise such person that representation in any
 197 collateral proceedings is the responsibility of the capital
 198 collateral regional counsel. The public defender shall then
 199 forward all original files on the matter to the capital
 200 collateral regional counsel, retaining such copies for his or
 201 her files as may be desired. However, for clemency applications
 202 pending or filed before July 1, 2013, the trial court shall
 203 retain the power to appoint the public defender or other
 204 attorney not employed by the capital collateral regional counsel
 205 to represent such person in proceedings for relief by executive
 206 clemency pursuant to ss. 27.40 and 27.5303.

207 Section 5. Effective July 1, 2013, subsection (9) of
 208 section 27.511, Florida Statutes, is amended to read:

209 27.511 Offices of criminal conflict and civil regional
 210 counsel; legislative intent; qualifications; appointment;
 211 duties.—

212 (9) When direct appellate proceedings prosecuted by the
 213 office of criminal conflict and civil regional counsel on behalf
 214 of an accused and challenging a judgment of conviction and
 215 sentence of death terminate in an affirmance of such conviction
 216 and sentence, whether by the Supreme Court or by the United
 217 States Supreme Court or by expiration of any deadline for filing
 218 such appeal in a state or federal court, the office of criminal
 219 conflict and civil regional counsel shall notify the accused of
 220 his or her rights pursuant to Rule 3.850, Florida Rules of
 221 Criminal Procedure, including any time limits pertinent thereto,
 222 and shall advise such person that representation in any
 223 collateral proceedings is the responsibility of the capital

224 collateral regional counsel. The office of criminal conflict and
 225 civil regional counsel shall forward all original files on the
 226 matter to the capital collateral regional counsel, retaining
 227 such copies for his or her files as may be desired or required
 228 by law. However, for clemency applications pending or filed
 229 before July 1, 2013, the trial court shall retain the power to
 230 appoint the office of criminal conflict and civil regional
 231 counsel or other attorney not employed by the capital collateral
 232 regional counsel to represent such person in proceedings for
 233 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

234 Section 6. Subsection (9) of section 27.511, Florida
 235 Statutes, as amended by this act, is amended to read:

236 27.511 Offices of criminal conflict and civil regional
 237 counsel; legislative intent; qualifications; appointment;
 238 duties.—

239 (9) When direct appellate proceedings prosecuted by the
 240 office of criminal conflict and civil regional counsel on behalf
 241 of an accused and challenging a judgment of conviction and
 242 sentence of death terminate in an affirmance of such conviction
 243 and sentence, whether by the Supreme Court or by the United
 244 States Supreme Court or by expiration of any deadline for filing
 245 such appeal in a state or federal court, the office of criminal
 246 conflict and civil regional counsel shall notify the accused of
 247 his or her rights pursuant to s. 924.056 ~~Rule 3.850, Florida~~
 248 ~~Rules of Criminal Procedure,~~ including any time limits pertinent
 249 thereto, and shall advise such person that representation in any
 250 collateral proceedings is the responsibility of the capital
 251 collateral regional counsel. The office of criminal conflict and

252 civil regional counsel shall forward all original files on the
 253 matter to the capital collateral regional counsel, retaining
 254 such copies for his or her files as may be desired or required
 255 by law. However, for clemency applications pending or filed
 256 before July 1, 2013, the trial court shall retain the power to
 257 appoint the office of criminal conflict and civil regional
 258 counsel or other attorney not employed by the capital collateral
 259 regional counsel to represent such person in proceedings for
 260 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

261 Section 7. Effective July 1, 2013, subsection (4) of
 262 section 27.5303, Florida Statutes, is amended to read:

263 27.5303 Public defenders; criminal conflict and civil
 264 regional counsel; conflict of interest.—

265 (4) (a) If a defendant is convicted and the death sentence
 266 is imposed, the appointed attorney shall continue representation
 267 through appeal to the Supreme Court. The attorney shall be
 268 compensated as provided in s. 27.5304. If the attorney first
 269 appointed is unable to handle the appeal, the court shall
 270 appoint another attorney and that attorney shall be compensated
 271 as provided in s. 27.5304.

272 (b) The public defender or an attorney appointed pursuant
 273 to this section may be appointed by the court rendering the
 274 judgment imposing the death penalty to represent an indigent
 275 defendant who, before July 1, 2013, has an application for
 276 executive clemency pending or has applied for executive clemency
 277 as relief from the execution of the judgment imposing the death
 278 penalty.

279 (c) When the appointed attorney in a capital case has

280 completed the duties imposed by this section, the attorney shall
 281 file a written report in the trial court stating the duties
 282 performed by the attorney and apply for discharge.

283 Section 8. Effective July 1, 2013, subsection (5) of
 284 section 27.5304, Florida Statutes, is amended to read:

285 27.5304 Private court-appointed counsel; compensation;
 286 notice.—

287 (5) The compensation for representation in a criminal
 288 proceeding shall not exceed the following:

289 (a)1. For misdemeanors and juveniles represented at the
 290 trial level: \$1,000.

291 2. For noncapital, nonlife felonies represented at the
 292 trial level: \$2,500.

293 3. For life felonies represented at the trial level:
 294 \$3,000.

295 4. For capital cases represented at the trial level:
 296 \$15,000. For purposes of this subparagraph, a "capital case" is
 297 any offense for which the potential sentence is death and the
 298 state has not waived seeking the death penalty.

299 5. For representation on appeal: \$2,000.

300 (b) If a death sentence is imposed and affirmed on appeal
 301 to the Supreme Court, the appointed attorney shall be allowed
 302 compensation, not to exceed \$1,000, for attorney fees and costs
 303 incurred in representing the defendant as to an application for
 304 executive clemency submitted before July 1, 2013, with
 305 compensation to be paid out of general revenue from funds
 306 budgeted to the Department of Corrections.

307 Section 9. Effective July 1, 2013, section 27.701, Florida

308 Statutes, is amended to read:
 309 27.701 Capital collateral regional counsel.—
 310 ~~(1)~~ There are created three regional offices of capital
 311 collateral counsel, which shall be located in a northern,
 312 middle, and southern region of the state. The northern region
 313 shall consist of the First, Second, Third, Fourth, Eighth, and
 314 Fourteenth Judicial Circuits; the middle region shall consist of
 315 the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth,
 316 and Eighteenth Judicial Circuits; and the southern region shall
 317 consist of the Eleventh, Fifteenth, Sixteenth, Seventeenth,
 318 Nineteenth, and Twentieth Judicial Circuits. Each regional
 319 office shall be administered by a regional counsel. A regional
 320 counsel must be, and must have been for the preceding 5 years, a
 321 member in good standing of The Florida Bar or a similar
 322 organization in another state. Each capital collateral regional
 323 counsel shall be appointed by the Governor, and is subject to
 324 confirmation by the Senate. The Supreme Court Judicial
 325 Nominating Commission shall recommend to the Governor three
 326 qualified candidates for each appointment as regional counsel.
 327 The Governor shall appoint a regional counsel for each region
 328 from among the recommendations, or, if it is in the best
 329 interest of the fair administration of justice in capital cases,
 330 the Governor may reject the nominations and request submission
 331 of three new nominees by the Supreme Court Judicial Nominating
 332 Commission. Each capital collateral regional counsel shall be
 333 appointed to a term of 3 years. Vacancies in the office of
 334 capital collateral regional counsel shall be filled in the same
 335 manner as appointments. A person appointed as a regional counsel

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336 may not run for or accept appointment to any state office for 2
337 years following vacation of office.

338 ~~(2) Notwithstanding the provisions of subsection (1), the~~
339 ~~responsibilities of the regional office of capital collateral~~
340 ~~counsel for the northern region of the state shall be met~~
341 ~~through a pilot program using only attorneys from the registry~~
342 ~~of attorneys maintained pursuant to s. 27.710. Each attorney~~
343 ~~participating in the pilot must be qualified to provide~~
344 ~~representation in federal court. The Auditor General shall~~
345 ~~schedule a performance review of the pilot program to determine~~
346 ~~the effectiveness and efficiency of using attorneys from the~~
347 ~~registry compared to the capital collateral regional counsel.~~
348 ~~The review, at a minimum, shall include comparisons of the~~
349 ~~timeliness and costs of the pilot and the counsel and shall be~~
350 ~~submitted to the President of the Senate and the Speaker of the~~
351 ~~House of Representatives by January 30, 2007. The Legislature~~
352 ~~may determine whether to convert the pilot program to a~~
353 ~~permanent program after receipt of the Auditor General's review.~~

354 Section 10. Subsection (1) of section 27.702, Florida
355 Statutes, is reenacted to read:

356 27.702 Duties of the capital collateral regional counsel;
357 reports.—

358 (1) The capital collateral regional counsel shall
359 represent each person convicted and sentenced to death in this
360 state for the sole purpose of instituting and prosecuting
361 collateral actions challenging the legality of the judgment and
362 sentence imposed against such person in the state courts,
363 federal courts in this state, the United States Court of Appeals

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364 for the Eleventh Circuit, and the United States Supreme Court.
365 The capital collateral regional counsel and the attorneys
366 appointed pursuant to s. 27.710 shall file only those
367 postconviction or collateral actions authorized by statute. The
368 three capital collateral regional counsel's offices shall
369 function independently and be separate budget entities, and the
370 regional counsel shall be the office heads for all purposes. The
371 Justice Administrative Commission shall provide administrative
372 support and service to the three offices to the extent requested
373 by the regional counsel. The three regional offices shall not be
374 subject to control, supervision, or direction by the Justice
375 Administrative Commission in any manner, including, but not
376 limited to, personnel, purchasing, transactions involving real
377 or personal property, and budgetary matters.

378 Section 11. Effective July 1, 2013, paragraph (b) of
379 subsection (4) of section 27.702, Florida Statutes, is amended
380 to read:

381 27.702 Duties of the capital collateral regional counsel;
382 reports.—

383 (4)

384 (b) Each capital collateral regional counsel ~~and each~~
385 ~~attorney participating in the pilot program in the northern~~
386 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report
387 to the President of the Senate and the Speaker of the House of
388 Representatives which details the number of hours worked by
389 investigators and legal counsel per case and the amounts per
390 case expended during the preceding quarter in investigating and
391 litigating capital collateral cases.

392 Section 12. Section 27.703, Florida Statutes, is amended
 393 to read:

394 27.703 Conflict of interest and substitute counsel.-

395 (1) The capital collateral regional counsel shall not
 396 accept an appointment or take any other action that will create
 397 a conflict of interest. If, at any time during the
 398 representation of a person, the capital collateral regional
 399 counsel alleges ~~determines~~ that the continued representation of
 400 that person creates a conflict of interest, the sentencing court
 401 shall hold a hearing in accordance with s. 924.059 to determine
 402 if an actual conflict exists. If the court determines that an
 403 actual conflict exists and that such conflict will adversely
 404 affect the capital collateral regional counsel's performance,
 405 the court shall, ~~upon application by the regional counsel,~~
 406 designate another regional counsel. If the replacement regional
 407 counsel alleges that a conflict of interest exists, the
 408 sentencing court shall hold a hearing in accordance with s.
 409 924.059 to determine if an actual conflict exists. If the court
 410 determines that an actual conflict exists and that such conflict
 411 will adversely affect the replacement regional counsel's
 412 performance, the court shall ~~and, only if a conflict exists with~~
 413 ~~the other two counsel,~~ appoint one or more members of The
 414 Florida Bar to represent the person ~~one or more of such persons.~~

415 (2) Appointed counsel shall be paid from funds
 416 appropriated to the Chief Financial Officer. The hourly rate may
 417 not exceed \$100. However, all appointments of private counsel
 418 under this section shall be in accordance with ss. 27.710 and
 419 27.711.

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420 (3) Before ~~Prior to~~ employment, counsel appointed pursuant
421 to this section must have participated in at least five felony
422 jury trials, five felony appeals, or five capital postconviction
423 evidentiary hearings, or any combination of at least five of
424 such proceedings.

425 Section 13. Subsection (2) of section 27.708, Florida
426 Statutes, is amended to read:

427 27.708 Access to inmates ~~prisoners; compliance with the~~
428 ~~Florida Rules of Criminal Procedure;~~ records requests.—

429 (2) The capital collateral regional counsel and contracted
430 private counsel must timely comply with all statutory
431 requirements ~~provisions of the Florida Rules of Criminal~~
432 ~~Procedure~~ governing collateral review of capital cases.

433 Section 14. Section 27.7081, Florida Statutes, is amended
434 to read:

435 (Substantial rewording of section. See
436 s. 27.7081, F.S., for present text.)

437 27.7081 Capital postconviction public records production.—

438 (1) DEFINITIONS.—As used in this section, the term:

439 (a) "Agency" has the same meaning as provided in s.
440 119.011.

441 (b) "Collateral counsel" means a capital collateral
442 regional counsel from one of the three regions in Florida, a
443 private attorney who has been appointed to represent a capital
444 defendant for postconviction litigation, or a private attorney
445 who has been hired by the capital defendant or who has agreed to
446 work pro bono for a capital defendant for postconviction
447 litigation.

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448 (c) "Public records" has the same meaning as provided in
449 s. 119.011.

450 (d) "Trial court" means:

451 1. The judge who entered the judgment and imposed the
452 sentence of death; or

453 2. If a motion for postconviction relief in a capital case
454 has been filed and a different judge has already been assigned
455 to that motion, the judge who is assigned to rule on that
456 motion.

457 (2) APPLICABILITY AND SCOPE.—This section only applies to
458 the production of public records for capital postconviction
459 defendants and does not change or alter the time periods
460 specified in s. 924.056 or s. 924.058. Furthermore, this section
461 does not affect, expand, or limit the production of public
462 records for any purpose other than use in a proceeding held
463 pursuant to s. 924.056 or s. 924.058. This section shall not be
464 a basis for renewing public records requests that have been
465 initiated previously or for relitigating issues pertaining to
466 production of public records upon which a court has ruled before
467 July 1, 2015. Public records requests made in postconviction
468 proceedings in capital cases in which the conviction and
469 sentence of death have been affirmed on direct appeal before
470 July 1, 2015, shall be governed by the rules and laws in effect
471 immediately before July 1, 2015.

472 (3) RECORDS REPOSITORY.—The Secretary of State shall
473 establish and maintain a records repository to archive capital
474 postconviction public records as provided for in this section.

475 (4) FILING AND SERVICE.—

476 (a) The original of all notices, requests, or objections
477 filed under this section must be filed with the clerk of the
478 trial court. Copies must be served on the trial court, the
479 attorney general, the state attorney, collateral counsel, and
480 any affected person or agency, unless otherwise required by this
481 section.

482 (b) Service shall be made pursuant to Rule 3.030, Florida
483 Rules of Criminal Procedure.

484 (c) In all instances requiring written notification or
485 request, the party who has the obligation of providing a
486 notification or request shall provide proof of receipt.

487 (d) Persons and agencies receiving postconviction public
488 records notifications or requests pursuant to this section are
489 not required to furnish records filed in a trial court before
490 the receipt of the notice.

491 (5) ACTION UPON ISSUANCE OF THE MANDATE ON DIRECT APPEAL.—

492 (a) Within 15 days after receiving written notification of
493 the Florida Supreme Court's mandate affirming the sentence of
494 death, the attorney general shall file with the trial court a
495 written notice of the mandate and serve a copy of the notice
496 upon the state attorney who prosecuted the case, the Department
497 of Corrections, and the defendant's trial counsel. The notice to
498 the state attorney shall direct the state attorney to submit
499 public records to the records repository within 90 days after
500 receipt of written notification and to notify each law
501 enforcement agency involved in the investigation of the capital
502 offense to submit public records to the records repository
503 within 90 days after receipt of written notification. The notice

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504 to the Department of Corrections shall direct the department to
505 submit public records to the records repository within 90 days
506 after receipt of written notification.

507 (b) Within 90 days after receiving written notification of
508 issuance of the Florida Supreme Court's mandate affirming a
509 death sentence, the state attorney shall provide written
510 notification to the attorney general of the name and address of
511 an additional person or agency that has public records pertinent
512 to the case.

513 (c) Within 90 days after receiving written notification of
514 issuance of the Florida Supreme Court's mandate affirming a
515 death sentence, the defendant's trial counsel shall provide
516 written notification to the attorney general of the name and
517 address of a person or agency with information pertinent to the
518 case which has not previously been provided to collateral
519 counsel.

520 (d) Within 15 days after receiving written notification of
521 any additional person or agency pursuant to paragraph (b) or
522 paragraph (c), the attorney general shall notify all persons or
523 agencies identified pursuant to paragraph (b) or paragraph (c)
524 that these persons or agencies are required by law to copy,
525 index, and deliver to the records repository all public records
526 pertaining to the case that are in their possession. The person
527 or agency shall bear the costs related to copying, indexing, and
528 delivering the records.

529 (6) ACTION UPON RECEIPT OF NOTICE OF MANDATE.—

530 (a) Within 15 days after receipt of a written notice of
531 the mandate from the attorney general, the state attorney shall

532 provide written notification to each law enforcement agency
533 involved in the specific case to submit public records to the
534 records repository within 90 days after receipt of written
535 notification. A copy of the notice shall be served upon the
536 defendant's trial counsel.

537 (b) Within 90 days after receipt of a written notice of
538 the mandate from the attorney general, the state attorney shall
539 copy, index, and deliver to the records repository all public
540 records that were produced in the state attorney's investigation
541 or prosecution of the case. The state attorney shall bear the
542 costs. The state attorney shall also provide written
543 notification to the attorney general of compliance with this
544 section, including certifying that, to the best of the state
545 attorney's knowledge or belief, all public records in the state
546 attorney's possession have been copied, indexed, and delivered
547 to the records repository as required by this section.

548 (c) Within 90 days after receipt of written notification
549 of the mandate from the attorney general, the Department of
550 Corrections shall, at its own expense, copy, index, and deliver
551 to the records repository all public records determined by the
552 department to be relevant to the subject matter of a proceeding
553 under s. 924.056 or s. 924.058, unless such copying, indexing,
554 and delivering would be unduly burdensome. The secretary of the
555 department shall provide written notification to the attorney
556 general of compliance with this paragraph certifying that, to
557 the best of the secretary of the department's knowledge or
558 belief, all such public records in the possession of the
559 secretary of the department have been copied, indexed, and

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560 delivered to the records repository.

561 (d) Within 90 days after receipt of written notification
562 of the mandate from the state attorney, a law enforcement agency
563 shall, at its own expense, copy, index, and deliver to the
564 records repository all public records that were produced in the
565 investigation or prosecution of the case. The chief law
566 enforcement officer of each law enforcement agency shall provide
567 written notification to the attorney general of compliance with
568 this paragraph including certifying that, to the best of the
569 chief law enforcement officer's knowledge or belief, all such
570 public records in possession of the agency or in possession of
571 an employee of the agency, have been copied, indexed, and
572 delivered to the records repository.

573 (e) Within 90 days after receipt of written notification
574 of the mandate from the attorney general, each additional person
575 or agency identified pursuant to paragraph (5) (b) or paragraph
576 (5) (c) shall copy, index, and deliver to the records repository
577 all public records which were produced during the prosecution of
578 the case. The person or agency shall bear the costs. The person
579 or agency shall provide written notification to the attorney
580 general of compliance with this subdivision and shall certify,
581 to the best of the person or agency's knowledge and belief, all
582 such public records in the possession of the person or agency
583 have been copied, indexed, and delivered to the records
584 repository.

585 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.—

586 (a) Public records delivered to the records repository
587 pursuant to this section that are confidential or exempt from

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588 the requirements of s. 119.07(1) or article I, section 24(a), of
589 the Constitution, must be separately contained, without being
590 redacted, and sealed. The outside of the container must clearly
591 identify that the public record is confidential or exempt and
592 that the seal may not be broken without an order of the trial
593 court. The outside of the container must identify the nature of
594 the public records and the legal basis for the exemption.

595 (b) Upon the entry of an appropriate court order, sealed
596 containers subject to an inspection by the trial court shall be
597 shipped to the clerk of court. The containers may be opened only
598 for inspection by the trial court in camera. The moving party
599 shall bear all costs associated with the transportation and
600 inspection of such records by the trial court. The trial court
601 shall perform the unsealing and inspection without ex parte
602 communications and in accord with procedures for reviewing
603 sealed documents.

604 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.-

605 (a) Within 240 days after collateral counsel is appointed,
606 retained, or appears pro bono, such counsel shall send a written
607 demand for additional public records to each person or agency
608 submitting public records or identified as having information
609 pertinent to the case under subsection (5).

610 (b) Within 90 days after receipt of the written demand,
611 each person or agency notified under this subsection shall
612 deliver to the records repository additional public records in
613 the possession of the person or agency that pertain to the case
614 and shall certify to the best of the person or agency's
615 knowledge and belief that all additional public records have

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616 been delivered to the records repository or, if no additional
617 public records are found, shall recertify that the public
618 records previously delivered are complete.

619 (c) Within 60 days after receipt of the written demand, a
620 person or agency may file with the trial court an objection to
621 the written demand described in paragraph (a). The trial court
622 shall hold a hearing and issue a ruling within 30 days after the
623 filing of an objection, ordering a person or agency to produce
624 additional public records if the court determines that:

625 1. Collateral counsel has made a timely and diligent
626 search as provided in this section.

627 2. Collateral counsel's written demand identifies, with
628 specificity, those additional public records that are not at the
629 records repository.

630 3. The additional public records sought are relevant to
631 the subject matter of a postconviction proceeding under s.
632 924.056 or s. 924.058, or appear reasonably calculated to lead
633 to the discovery of admissible evidence.

634 4. The additional public records request is not overly
635 broad or unduly burdensome.

636 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL
637 RECORDS.—

638 (a) In order to obtain public records in addition to those
639 provided under subsections (6), (7), and (8), collateral counsel
640 shall file an affidavit in the trial court which:

641 1. Attests that collateral counsel has made a timely and
642 diligent search of the records repository.

643 2. Identifies with specificity those public records not at

644 | the records repository.

645 | 3. Establishes that the additional public records are
 646 | either relevant to the subject matter of the postconviction
 647 | proceeding or are reasonably calculated to lead to the discovery
 648 | of admissible evidence.

649 | 4. Shall be served in accord with subsection (4).

650 | (b) Within 30 days after the affidavit of collateral
 651 | counsel is filed, the trial court shall order a person or agency
 652 | to produce additional public records only upon finding that:

653 | 1. Collateral counsel has made a timely and diligent
 654 | search of the records repository.

655 | 2. Collateral counsel's affidavit identifies with
 656 | specificity those additional public records that are not at the
 657 | records repository.

658 | 3. The additional public records sought are either
 659 | relevant to the subject matter of a capital postconviction
 660 | proceeding or appear reasonably calculated to lead to the
 661 | discovery of admissible evidence.

662 | 4. The additional records request is not overly broad or
 663 | unduly burdensome.

664 | (10) COPYING RECORDS.—Collateral counsel shall provide the
 665 | personnel, supplies, and any necessary equipment to copy records
 666 | held at the records repository.

667 | (11) AUTHORITY OF THE COURT.—In proceedings under this
 668 | section the trial court may:

669 | (a) Compel or deny disclosure of records.

670 | (b) Conduct an inspection in camera.

671 | (c) Extend the time periods in this section upon a showing

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672 of good cause.

673 (d) Impose sanctions upon a party, person, or agency
674 affected by this section, including initiating contempt
675 proceedings, taxing expenses, extending time periods, ordering
676 facts to be established, and granting other relief.

677 (e) Resolve a dispute arising under this section unless
678 jurisdiction is in an appellate court.

679 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION
680 ISSUES.—

681 (a) Unless otherwise limited, the scope of production
682 under any part of this section shall be that the public records
683 sought are not privileged or immune from production and are
684 either relevant to the subject matter of a postconviction
685 proceeding under s. 924.056 or s. 924.058 or are reasonably
686 calculated to lead to the discovery of admissible evidence.

687 (b) Objections or motions to compel production of public
688 records pursuant to this section shall be filed within 30 days
689 after the end of the production time period provided by this
690 section. Counsel for the party objecting or moving to compel
691 shall file a copy of the objection or motion directly with the
692 trial court. The trial court shall hold a hearing on the
693 objection or motion on an expedited basis.

694 (c) The trial court may order mediation for a controversy
695 as to public records production pursuant to this section in
696 accord with Rules 1.700, 1.710, 1.720, and 1.730, Florida Rules
697 of Civil Procedure, or the trial court may refer such
698 controversy to a magistrate in accord with Rule 1.490, Florida
699 Rules of Civil Procedure.

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700 (13) DESTRUCTION OF RECORDS.—Sixty days after a capital
701 sentence is carried out, after a defendant is released from
702 incarceration after the granting of a pardon or reversal of the
703 sentence, or after a defendant has been resentenced to a term of
704 years, the attorney general shall provide written notification
705 of this occurrence to the Secretary of State. After the
706 expiration of the 60 days, the Secretary of State may destroy
707 the copies of the records held by the records repository that
708 pertain to that case, unless an objection to the destruction is
709 filed in the trial court and served upon the Secretary of State.
710 If no objection is served within the 60-day period, the records
711 may then be destroyed. If an objection is served, the records
712 shall not be destroyed until a final disposition of the
713 objection.

714 Section 15. Effective July 1, 2013, section 27.7091,
715 Florida Statutes, is amended to read:

716 27.7091 Legislative recommendations to Supreme Court;
717 ~~postconviction proceedings; pro bono service credit.~~—In the
718 interest of promoting justice and integrity with respect to
719 capital collateral representation, the Legislature recommends
720 that the Supreme Court:

721 ~~(1) Adopt by rule the provisions of s. 924.055, which~~
722 ~~limit the time for postconviction proceedings in capital cases.~~

723 ~~(2)~~ award pro bono service credit for time spent by an
724 attorney in providing legal representation to an individual
725 sentenced to death in this state, regardless of whether the
726 attorney receives compensation for such representation.

727 Section 16. Effective July 1, 2013, subsections (3) and

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728 (14) of section 27.711, Florida Statutes, are amended to read:
729 27.711 Terms and conditions of appointment of attorneys as
730 counsel in postconviction capital collateral proceedings.—
731 (3) An attorney appointed to represent a capital defendant
732 is entitled to payment of the fees set forth in this section
733 only upon full performance by the attorney of the duties
734 specified in this section and approval of payment by the trial
735 court, and the submission of a payment request by the attorney,
736 subject to the availability of sufficient funding specifically
737 appropriated for this purpose. ~~An attorney may not be~~
738 ~~compensated under this section for work performed by the~~
739 ~~attorney before July 1, 2003, while employed by the northern~~
740 ~~regional office of the capital collateral counsel.~~ The Chief
741 Financial Officer shall notify the executive director and the
742 court if it appears that sufficient funding has not been
743 specifically appropriated for this purpose to pay any fees which
744 may be incurred. The attorney shall maintain appropriate
745 documentation, including a current and detailed hourly
746 accounting of time spent representing the capital defendant. The
747 fee and payment schedule in this section is the exclusive means
748 of compensating a court-appointed attorney who represents a
749 capital defendant. When appropriate, a court-appointed attorney
750 must seek further compensation from the Federal Government, as
751 provided in 18 U.S.C. s. 3006A or other federal law, in habeas
752 corpus litigation in the federal courts.

753 ~~(14) Each attorney participating in the pilot program in~~
754 ~~the northern region pursuant to s. 27.701(2), as a condition of~~
755 ~~payment pursuant to this section, shall report on the~~

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756 ~~performance measures adopted by the Legislature for the capital~~
757 ~~collateral regional counsel.~~

758 Section 17. Paragraph (b) of subsection (4) of section
759 27.711, Florida Statutes, is amended to read:

760 27.711 Terms and conditions of appointment of attorneys as
761 counsel in postconviction capital collateral proceedings.-

762 (4) Upon approval by the trial court, an attorney
763 appointed to represent a capital defendant under s. 27.710 is
764 entitled to payment of the following fees by the Chief Financial
765 Officer:

766 (b) The attorney is entitled to \$100 per hour, up to a
767 maximum of \$20,000, after timely filing in the trial court the
768 capital defendant's complete original motion for postconviction
769 relief ~~under the Florida Rules of Criminal Procedure~~. The motion
770 must raise all issues to be addressed by the trial court.
771 However, an attorney is entitled to fees under this paragraph if
772 the court schedules a hearing on a matter that makes the filing
773 of the original motion for postconviction relief unnecessary or
774 if the court otherwise disposes of the case.

775
776 The hours billed by a contracting attorney under this subsection
777 may include time devoted to representation of the defendant by
778 another attorney who is qualified under s. 27.710 and who has
779 been designated by the contracting attorney to assist him or
780 her.

781 Section 18. Section 922.095, Florida Statutes, is amended
782 to read:

783 922.095 Grounds for death warrant; limitations of

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784 actions.—A person who is convicted and sentenced to death must
785 pursue all possible collateral remedies within the time limits
786 provided by statute. Failure to seek relief within the statutory
787 time limits constitutes grounds for issuance of a death warrant
788 under s. 922.052 or s. 922.14. Any postconviction claim not
789 pursued within the statutory time limits is barred. No
790 postconviction claim filed after the time required by law shall
791 be grounds for a judicial stay of any warrant.

792 Section 19. Section 922.108, Florida Statutes, is
793 reenacted to read:

794 922.108 Sentencing orders in capital cases.—The sentence
795 of death must not specify any particular method of execution.
796 The wording or form of the sentencing order shall not be grounds
797 for reversal of any sentence.

798 Section 20. Section 924.055, Florida Statutes, is amended
799 to read:

800 924.055 Postconviction review in capital cases;
801 legislative findings and intent.—

802 (1) It is the intent of the Legislature to reduce delays
803 in capital cases and to ensure that all ~~appeals and~~
804 postconviction actions in capital cases are resolved as quickly
805 as possible ~~within 5 years~~ after the date a sentence of death is
806 imposed in the circuit court. ~~All capital postconviction actions~~
807 ~~must be filed as early as possible after the imposition of a~~
808 ~~sentence of death which may be during a direct appeal of the~~
809 ~~conviction and sentence.~~ A person sentenced to death or that
810 person's capital postconviction counsel must file any
811 postconviction ~~legal~~ action in compliance with the timeframes

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812 ~~statutes of limitation~~ established in ss. s. 924.056 and
813 924.058, and elsewhere in this chapter. Except as expressly
814 allowed by s. 924.058 ~~s. 924.056(5)~~, a person sentenced to death
815 or that person's capital postconviction counsel may not file
816 more than one postconviction action in a sentencing court and
817 one appeal therefrom to the Florida Supreme Court, unless
818 authorized by law.

819 (2) It is the further intent of the Legislature that no
820 state resources be expended in violation of this act. In the
821 event that any state employee or party contracting with the
822 state violates the provisions of this act, the Attorney General
823 shall deliver to the Speaker of the House of Representatives and
824 the President of the Senate a copy of any court pleading or
825 order that describes or adjudicates a violation.

826 Section 21. Section 924.056, Florida Statutes, is amended
827 to read:

828 (Substantial rewording of section. See
829 s. 924.056, F.S., for present text.)

830 924.056 Capital postconviction proceedings.—

831 (1) APPLICABILITY.—This section governs all postconviction
832 proceedings in every capital case in which the conviction and
833 sentence of death have been affirmed on direct appeal on or
834 after July 1, 2015.

835 (2) APPOINTMENT OF POSTCONVICTION COUNSEL.—

836 (a) Upon the issuance of the mandate affirming a judgment
837 and sentence of death on direct appeal, the Florida Supreme
838 Court shall at the same time issue an order appointing the
839 appropriate office of the capital collateral regional counsel.

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840 (b) Within 30 days after being appointed, the regional
841 counsel shall file a notice of appearance in the trial court or
842 a motion to withdraw based on an actual conflict of interest or
843 another legal ground. Motions to withdraw filed more than 30
844 days after being appointed shall not be entertained unless based
845 on an actual conflict of interest.

846 (c) The court shall conduct a hearing in accordance with
847 s. 924.059 if the regional counsel's motion to withdraw is based
848 on an actual conflict. If the regional counsel files a motion to
849 withdraw based on another legal ground, the chief judge or
850 assigned judge shall rule on the motion within 15 days after the
851 filling of the motion. If the court determines that new
852 postconviction counsel should be appointed, the court shall
853 appoint another regional counsel and, only if a conflict exists
854 with the replacement regional counsel, appoint new
855 postconviction counsel from the statewide registry of attorneys
856 compiled and maintained by the Justice Administrative Commission
857 pursuant to s. 27.710.

858 (d) If the defendant requests without good cause that an
859 attorney appointed under this subsection be removed or replaced,
860 the court shall notify the defendant that no further state
861 resources may be expended for postconviction representation for
862 that defendant unless the defendant withdraws the request to
863 remove or replace postconviction counsel. If the defendant does
864 not withdraw his or her request, then an appointed attorney must
865 be removed from the case and no further state resources may be
866 expended for the defendant's postconviction representation.

867 (3) PRELIMINARY PROCEDURES.—

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868 (a) Within 30 days after the issuance of mandate affirming
869 a judgment and sentence of death on direct appeal, the chief
870 judge shall assign the case to a judge qualified under the Rules
871 of Judicial Administration to conduct capital proceedings.

872 (b) The assigned judge shall conduct a status conference
873 within 90 days after the judicial assignment, and shall hold
874 status conferences at least every 90 days thereafter until the
875 evidentiary hearing has been completed or the postconviction
876 motion has been ruled on without a hearing. The attorneys may,
877 with leave of the court, appear electronically at the status
878 conferences. Requests to appear electronically shall be
879 liberally granted. Pending motions, disputes involving public
880 records, or other matters ordered by the court shall be heard at
881 the status conferences. The defendant's presence is not required
882 at status conferences held pursuant to this paragraph.

883 (c) Within 45 days after appointment of postconviction
884 counsel, the defendant's trial counsel shall provide to
885 postconviction counsel all information pertaining to the
886 defendant's capital case that was obtained during the
887 representation of the defendant. Postconviction counsel shall
888 maintain the confidentiality of all confidential information
889 received.

890 (4) TIME LIMITATIONS ON FILING A POSTCONVICTION MOTION.—

891 (a) A postconviction motion must be filed by the death-
892 sentenced inmate within 1 year after the judgment and sentence
893 become final. For the purposes of this subsection, a judgment is
894 final:

895 1. Upon the expiration of the time permitted to file in

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896 the United States Supreme Court a petition for writ of
897 certiorari seeking review of the Florida Supreme Court decision
898 affirming a judgment and sentence of death; or

899 2. Upon the disposition of the petition for writ of
900 certiorari by the United States Supreme Court, if filed.

901 (b) No postconviction motion shall be filed or considered
902 pursuant to this subsection if filed beyond the time limitation
903 provided in paragraph (a) unless it alleges:

904 1. The facts on which the motion is predicated were
905 unknown to the movant or the movant's attorney and could not
906 have been ascertained by the exercise of due diligence;

907 2. The fundamental constitutional right asserted was not
908 established within the period provided for in paragraph (a) and
909 has been held to apply retroactively; or

910 3. Postconviction counsel, through neglect, failed to file
911 the motion.

912 (c) All petitions for extraordinary relief in which the
913 Florida Supreme Court has original jurisdiction, including
914 petitions for writs of habeas corpus, shall be filed
915 simultaneously with the initial brief filed on behalf of the
916 death-sentenced inmate in the appeal of the circuit court's
917 order on the initial motion for postconviction relief filed
918 under this subsection.

919 (d) The time limitation provided in paragraph (a) is
920 established with the understanding that each death-sentenced
921 inmate will have counsel assigned and available to begin
922 addressing the inmate's postconviction issues within the time
923 specified in this subsection. Should the Governor sign a death

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924 warrant before the expiration of the time limitation provided in
925 paragraph (a), the Florida Supreme Court, on a death-sentenced
926 inmate's request, will grant a stay of execution to allow a
927 postconviction relief motions to proceed in a timely manner.

928 (5) CONTENTS OF POSTCONVICTION MOTION.—

929 (a) A state court may not consider a postconviction motion
930 unless the motion is fully pled. For the purposes of this
931 subsection, a fully pled postconviction motion is one that
932 complies with paragraph (b). The fully pled postconviction
933 motion must raise all cognizable claims that the inmate's
934 judgment or sentence was entered in violation of the
935 Constitution or laws of the United States or the Constitution or
936 the laws of this state, including a claim of ineffective
937 assistance of trial counsel or direct appeal counsel,
938 allegations of innocence, or that the state withheld evidence
939 favorable to the inmate.

940 (b) The inmate's postconviction motion shall be filed
941 under oath and shall be fully pled to include the following:

942 1. The judgment or sentence under attack and the court
943 that rendered the same.

944 2. A statement of each issue raised on appeal and the
945 disposition thereof.

946 3. Whether a previous postconviction motion has been filed
947 and, if so, the disposition of all previous claims raised in
948 postconviction litigation or, if a previous motion or motions
949 have been filed, the reason or reasons the claim or claims in
950 the present motion were not raised in the former motion or
951 motions.

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952 4. The nature of the relief sought.

953 5. A fully detailed allegation of the factual basis for a
954 claim for which an evidentiary hearing is sought, including the
955 attachment of a document supporting the claim, the name and
956 address of a witness, the attachment of affidavits of the
957 witnesses or a proffer of the testimony.

958 6. A fully detailed allegation as to the basis for a purely
959 legal or constitutional claim for which an evidentiary hearing
960 is not required and the reason that this claim could not have
961 been or was not raised on direct appeal.

962 7. A concise memorandum of applicable case law as to each
963 claim asserted.

964 (c) A postconviction motion and memorandum of law filed
965 under this subsection may not exceed 75 pages, exclusive of the
966 attachments. Attachments shall include, but are not limited to,
967 the judgment and sentence. The memorandum of law must set forth
968 the applicable case law supporting the granting of relief as to
969 each separately pled claim.

970 (d) Claims raised in a postconviction motion that could
971 have or should have been raised at trial and, if properly
972 preserved, on direct appeal of the judgment and sentence, are
973 barred.

974 (e) A postconviction motion may not include a claim of
975 ineffective assistance of collateral postconviction counsel.

976 (f) A postconviction motion may not be amended without
977 court approval. In no instance shall such motion be amended
978 beyond the time limitations provided by subsection (3) for the
979 filing of a postconviction motion. If amendment is allowed, the

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980 state shall file an amended answer within 20 days after the
981 amended motion is filed.

982 (g) A postconviction motion that does not comply with a
983 requirement in this subsection shall not be considered in a
984 state court.

985 (6) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.—

986 (a) All pleadings in a postconviction proceeding shall be
987 filed with the clerk of the trial court and served on the
988 assigned judge, opposing party, and the attorney general. The
989 clerk shall immediately deliver to the chief judge or the
990 assigned judge a motion filed in a postconviction proceeding
991 along with the court file.

992 (b) If the defendant intends to offer expert testimony of
993 his or her mental status in a postconviction proceeding, the
994 state shall be entitled to have the defendant examined by its
995 own mental health expert. If the defendant fails to cooperate
996 with the state's expert, the trial court may, in its discretion,
997 proceed as provided in Rule 3.202(e), Florida Rules of Criminal
998 Procedure. Reports provided to either party by an expert witness
999 shall be disclosed to opposing counsel upon receipt.

1000 (c) The state shall file its answer within 60 days after
1001 the filing of an initial postconviction motion. The answer and
1002 accompanying memorandum of law may not exceed 75 pages,
1003 exclusive of attachments and exhibits. The answer must address
1004 the legal sufficiency of a claim in the motion, respond to the
1005 allegations of the motion, address procedural bars, and state
1006 the reasons that an evidentiary hearing is or is not required.
1007 As to a claim of legal insufficiency or procedural bar, the

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1008 state must include a short statement of any applicable case law.

1009 (d) Within 30 days after the state files its answer to an
1010 initial motion, the trial court shall hold a case management
1011 conference. At the case management conference, both parties
1012 shall disclose all documentary exhibits that they intend to
1013 offer at the evidentiary hearing, provide a list of all such
1014 exhibits, and exchange a witness list with the names and
1015 addresses of a potential witness. All expert witnesses must be
1016 specifically designated on the witness list, and copies of all
1017 expert reports shall be attached. At the case management
1018 conference, the trial court shall:

1019 1. Schedule an evidentiary hearing, to be held within 90
1020 days after the conference, on claims listed by the defendant as
1021 requiring a factual determination.

1022 2. Hear arguments on a purely legal claims not based on
1023 disputed facts.

1024 3. Resolve disputes arising from the exchange of
1025 information under this paragraph.

1026 (e) If the court determines that an evidentiary hearing is
1027 not necessary and that the defendant's postconviction motion is
1028 legally insufficient or that the motion, files, and records in
1029 the case show that the defendant is not entitled to relief, the
1030 court shall, within 30 days after the conclusion of the case
1031 management conference, deny the motion, setting forth a detailed
1032 rationale therefore, and attaching or referencing such portions
1033 of the record as are necessary to allow for meaningful appellate
1034 review.

1035 (f) Immediately after an evidentiary hearing, the trial

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1036 court shall order a transcript of the hearing that shall be
1037 filed within 30 days. Within 30 days after receipt of the
1038 transcript, the court shall render its order, ruling on each
1039 claim considered at the evidentiary hearing and all other claims
1040 raised in the postconviction motion, making detailed findings of
1041 fact and conclusions of law with respect to each claim, and
1042 attaching or referencing such portions of the record as are
1043 necessary to allow for meaningful appellate review. The order
1044 issued after the evidentiary hearing shall resolve all the
1045 claims raised in the postconviction motion and shall be
1046 considered the final order for purposes of appeal. The clerk of
1047 the trial court shall promptly serve upon the parties and the
1048 attorney general a copy of the final order, with a certificate
1049 of service.

1050 (g) Motions for rehearing must be filed within 15 days
1051 after the rendition of the trial court's order and a response
1052 thereto must filed within 10 days thereafter. The trial court's
1053 order disposing of the motion for rehearing shall be rendered
1054 within 15 days after the response is filed.

1055 (h) An appeal may be taken by filing a notice to appeal
1056 with the Florida Supreme Court within 15 days after the entry of
1057 a final order on a capital postconviction motion. An
1058 interlocutory appeal is not permitted.

1059 Section 22. Section 924.057, Florida Statutes, is amended
1060 to read:

1061 924.057 Capital Limitation on postconviction proceedings;
1062 conviction and death sentence affirmed on direct appeal before
1063 July 1, 2015 ~~cases in which the death sentence was imposed~~

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1064 ~~before January 14, 2000. This section shall govern all capital~~
1065 ~~postconviction actions in cases in which the trial court imposed~~
1066 ~~the sentence of death before the effective date of this act.~~

1067 (1) ~~Nothing in This act~~ does not ~~shall~~ expand any right or
1068 time period allowed for the prosecution of capital
1069 postconviction claims in any case in which a postconviction
1070 action was commenced or should have been commenced before July
1071 1, 2015 ~~prior to the effective date of this act.~~

1072 (2) Postconviction proceedings in every capital case in
1073 which the conviction and sentence of death have been affirmed on
1074 direct appeal before July 1, 2015, shall be governed by the
1075 rules and laws in effect immediately before July 1, 2015.

1076 ~~(2) Except as provided in s. 924.056(5), in every case in~~
1077 ~~which mandate has issued in the Florida Supreme Court concluding~~
1078 ~~at least one capital postconviction action in the state court~~
1079 ~~system, a successive capital postconviction action shall be~~
1080 ~~barred on the effective date of this act, unless the rules or~~
1081 ~~law in effect immediately prior to the effective date of this~~
1082 ~~act permitted the successive postconviction action, in which~~
1083 ~~case the action shall be barred on the date provided in~~
1084 ~~subsection (4).~~

1085 ~~(3) All capital postconviction actions pending on the~~
1086 ~~effective date of this act shall be barred, and shall be~~
1087 ~~dismissed with prejudice, unless fully pled in substantial~~
1088 ~~compliance with s. 924.058, or with any superseding order or~~
1089 ~~rule, on or before:~~

1090 ~~(a) The time in which the action would be barred by this~~
1091 ~~section if the action had not begun prior to the effective date~~

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1092 ~~of this act, or~~

1093 ~~(b) Any earlier date provided by the rules or law, or~~
1094 ~~court order, in effect immediately prior to the effective date~~
1095 ~~of this act.~~

1096 ~~(4) In every capital case in which the trial court imposed~~
1097 ~~the sentence of death before the effective date of this act, a~~
1098 ~~capital postconviction action shall be barred unless it is~~
1099 ~~commenced on or before January 8, 2001, or any earlier date~~
1100 ~~provided by the rule or law in effect immediately prior to the~~
1101 ~~effective date of this act.~~

1102 Section 23. Section 924.058, Florida Statutes, is amended
1103 to read:

1104 (Substantial rewording of section. See
1105 s. 924.058, F.S., for present text.)

1106 924.058 Successive postconviction motions.—

1107 (1) APPLICABILITY.—

1108 (a) This section governs successive postconviction motions
1109 in all postconviction proceedings in each capital case in which
1110 the conviction and sentence of death have been affirmed on
1111 direct appeal on or after July 1, 2015.

1112 (b) A postconviction motion is successive if a state court
1113 has previously ruled on a postconviction motion challenging the
1114 same judgment and sentence.

1115 (2) TIME LIMITATIONS ON FILING A SUCCESSIVE MOTION.—

1116 (a) A successive postconviction motion is barred unless
1117 commenced by filing a fully pled successive postconviction
1118 motion within 90 days:

1119 1. After the facts giving rise to the claim were

1120 discovered or should have been discovered with the exercise of
 1121 due diligence; or

1122 2. After the fundamental constitutional right asserted was
 1123 established and held to apply retroactively.

1124 (b) A successive postconviction motion may not be filed or
 1125 considered pursuant to this subsection if filed beyond the time
 1126 limitation provided in paragraph (a) unless it alleges that
 1127 postconviction counsel, through neglect, failed to file the
 1128 motion.

1129 (3) CONTENTS OF MOTION.—

1130 (a) A state court may not consider a successive
 1131 postconviction motion unless the motion is fully pled. For the
 1132 purposes of this subsection, a fully pled successive
 1133 postconviction motion includes the following:

1134 1. All of the pleading requirements of an initial
 1135 postconviction motion under s. 924.056.

1136 2. The disposition of all previous claims raised in
 1137 postconviction proceedings and the reason or reasons the claim
 1138 or claims raised in the present motion were not raised in the
 1139 former motion or motions.

1140 3. If based upon newly discovered evidence, Brady v.
 1141 Maryland, 373 U.S. 83 (1963), or Giglio v. United States, 405
 1142 U.S. 150 (1972), the motion must include:

1143 a. The names, addresses, and telephone numbers of all
 1144 witnesses supporting the claim.

1145 b. A statement that the witness will be available, should
 1146 an evidentiary hearing be scheduled, to testify under oath to
 1147 the facts alleged in the motion or affidavit.

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1148 c. If evidentiary support is in the form of documents,
1149 copies of all documents shall be attached, including any
1150 affidavits obtained.

1151 d. As to a witness or document listed in the motion or
1152 attachment to the motion, a statement of the reason why the
1153 witness or document was not previously available.

1154 (b) A successive postconviction motion and memorandum of
1155 law filed under this subsection may not exceed 25 pages,
1156 exclusive of the attachments. Attachments shall include, but are
1157 not limited to, the judgment and sentence. The memorandum of law
1158 must set forth the applicable case law supporting the granting
1159 of relief as to each separately pled claim.

1160 (c) Claims raised in a successive postconviction motion
1161 that could have or should have been raised at trial, on direct
1162 appeal of the judgment and sentence, if properly preserved, and
1163 in the initial postconviction motion, are barred.

1164 (d) A successive postconviction motion may not include a
1165 claim of ineffective assistance of collateral postconviction
1166 counsel.

1167 (e) A successive postconviction motion may not be amended
1168 without court approval. In no instance shall such motion be
1169 amended beyond the time limitations provided by subsection (1)
1170 for the filing of a successive postconviction motion. If
1171 amendment is allowed, the state shall file an amended answer
1172 within 20 days after the amended motion is filed.

1173 (f) A successive postconviction motion that does not
1174 comply with a requirement in this subsection shall not be
1175 considered in a state court.

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1176 (4) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.—

1177 (a) If the defendant intends to offer expert testimony of
1178 his or her mental status in a successive postconviction motion
1179 proceeding, the state shall be entitled to have the defendant
1180 examined by its own mental health expert. If the defendant fails
1181 to cooperate with the state's expert, the trial court may, in
1182 its discretion, proceed as provided in Rule 3.202(e), Florida
1183 Rules of Criminal Procedure. Reports provided to either party by
1184 an expert witness shall be disclosed to opposing counsel upon
1185 receipt.

1186 (b) The state must file its answer within 20 days after
1187 the filing of a successive postconviction motion. The answer may
1188 not exceed 25 pages, exclusive of attachments and exhibits. The
1189 answer shall address the legal sufficiency of a claim in the
1190 motion, respond to the allegations of the motion, address any
1191 procedural bars, and state the reasons that an evidentiary
1192 hearing is or is not required. As to a claim of legal
1193 insufficiency or procedural bar, the answer must include a short
1194 statement of any applicable case law.

1195 (c) Within 30 days after the state files its answer to a
1196 successive postconviction motion, the trial court shall hold a
1197 case management conference. At the case management conference,
1198 both parties shall disclose all documentary exhibits that they
1199 intend to offer at the evidentiary hearing, provide an exhibit
1200 list of all such exhibits, and exchange a witness list with the
1201 name and address of any potential witness. All expert witnesses
1202 shall be specifically designated on the witness list, and copies
1203 of all expert reports shall be attached. At the case management

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1204 conference, the trial court shall:

1205 1. Schedule an evidentiary hearing, to be held within 90
1206 days, on claims listed by the defendant as requiring a factual
1207 determination.

1208 2. Hear arguments on a purely legal claim not based of
1209 disputed facts.

1210 3. Resolve disputes arising from the exchange of
1211 information under this paragraph.

1212 (d) If the court determines that an evidentiary hearing is
1213 not necessary and that the defendant's successive postconviction
1214 motion is legally insufficient or that the motion, files, and
1215 records in the case show that the defendant is not entitled to
1216 relief, the court shall, within 30 days after the conclusion of
1217 the case management conference, deny the motion, setting forth a
1218 detailed rationale therefore, and attaching or referencing such
1219 portions of the record as are necessary to allow for meaningful
1220 appellate review.

1221 (e) Immediately after an evidentiary hearing, the trial
1222 court shall order a transcript of the hearing that shall be
1223 filed within 30 days. Within 30 days after receipt of the
1224 transcript, the court shall render its order, ruling on each
1225 claim considered at the evidentiary hearing and all other claims
1226 raised in the successive postconviction motion, making detailed
1227 findings of fact and conclusions of law with respect to each
1228 claim, and attaching or referencing such portions of the record
1229 as are necessary to allow for meaningful appellate review. The
1230 order issued after the evidentiary hearing shall resolve all the
1231 claims raised in the successive postconviction motion and shall

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1232 be considered the final order for purposes of appeal. The clerk
1233 of the trial court shall promptly serve upon the parties and the
1234 attorney general a copy of the final order, with a certificate
1235 of service.

1236 (f) Motions for rehearing must be filed within 15 days
1237 after the rendition of the trial court's order and a response
1238 thereto must filed within 10 days thereafter. The trial court's
1239 order disposing of the motion for rehearing shall be rendered
1240 within 15 days after the response is filed.

1241 (g) An appeal may be taken by filing a notice to appeal
1242 with the Florida Supreme Court within 15 days after the entry of
1243 a final order on a capital postconviction motion. No
1244 interlocutory appeal shall be permitted.

1245 Section 24. Section 924.0581, Florida Statutes, is created
1246 to read:

1247 924.0581 Capital postconviction appeals to the Florida
1248 Supreme Court.—

1249 (1) APPLICABILITY.—This section governs capital
1250 postconviction appeals to the Florida Supreme Court in every
1251 capital case in which the conviction and sentence of death have
1252 been affirmed on direct appeal on or after July 1, 2015.

1253 (2) INITIAL AND SUCCESSIVE POSTCONVICTION MOTION APPEALS.—

1254 (a) When the notice of appeal is filed in the Florida
1255 Supreme Court, the chief justice shall direct the appropriate
1256 chief judge of the circuit court to monitor the preparation of
1257 the complete record for timely filing in the Florida Supreme
1258 Court.

1259 (b) The complete record in a death penalty appeal shall

1260 include transcripts of all proceedings conducted in the lower
 1261 court, all items required by Rule 9.200, Florida Rules of
 1262 Appellate Procedure, and any item listed in an order issued by
 1263 the Florida Supreme Court. The record shall begin with the most
 1264 recent mandate issued by the Florida Supreme Court; or, in the
 1265 event the preceding appeal was disposed of without a mandate,
 1266 the most recent filing not already transmitted to the Florida
 1267 Supreme Court in a prior record. The record shall exclude the
 1268 materials already transmitted to the Florida Supreme Court as
 1269 the record in a prior appeal.

1270 (c) The Florida Supreme Court shall take judicial notice
 1271 of the appellate records in all prior appeals and writ
 1272 proceedings involving a challenge to the same judgment of
 1273 conviction and sentence of death. Appellate records subject to
 1274 judicial notice under this section shall not be duplicated in
 1275 the record transmitted for the appeal under review.

1276 (d) If the sentencing court has denied the initial or
 1277 successive postconviction motion without an evidentiary hearing,
 1278 the Florida Supreme Court shall initially review the case to
 1279 determine whether the trial court correctly resolved the
 1280 defendant's claims without an evidentiary hearing. If the
 1281 Florida Supreme Court determines an evidentiary hearing should
 1282 have been held, the court may remand the case for an evidentiary
 1283 hearing. Jurisdiction shall be relinquished to the trial court
 1284 for the purpose of conducting an evidentiary hearing on the
 1285 issues identified in the Florida Supreme Court's order. The
 1286 trial court must schedule an evidentiary hearing within 30 days
 1287 after the Florida Supreme Court's order and conclude the hearing

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1288 within 90 days after scheduling. Upon conclusion of the
1289 evidentiary hearing, the record shall be supplemented with the
1290 hearing transcript.

1291 (e) The defendant has 30 days after the date the record is
1292 filed to file an initial brief. The answer brief must be filed
1293 within 20 days after filing of the initial brief. The reply
1294 brief, if any, must be filed within 20 days after filing of the
1295 answer brief. The cross-reply brief, if any, shall be filed
1296 within 20 days thereafter. A brief submitted after these time
1297 periods is barred and may not be heard.

1298 (f) Oral arguments shall be scheduled within 30 days after
1299 the filing of the defendant's reply brief.

1300 (g)1. The Florida Supreme Court shall render its decision
1301 within 180 days after oral arguments have concluded. If a denial
1302 of an action for postconviction relief is affirmed, the Governor
1303 may proceed to issue a warrant for execution.

1304 2. In instances where the Florida Supreme Court does not
1305 comply with subparagraph 1., the Chief Justice of the Florida
1306 Supreme Court shall, within 10 days after the expiration of the
1307 180 day deadline, submit a report to the President of the Senate
1308 and the Speaker of the House of Representatives explaining why a
1309 decision was not timely rendered. The Chief Justice shall submit
1310 a report to the President of the Senate and the Speaker of the
1311 House of Representatives every 30 days thereafter in which a
1312 decision is not rendered explaining the reasons therefore.

1313 (3) PETITIONS FOR EXTRAORDINARY RELIEF.—

1314 (a) Review proceedings under this subsection shall be
1315 treated as original proceedings under Rule 9.100, Rules of

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1316 Appellate Procedure, except as otherwise provided in this
1317 subsection.

1318 (b) A petition for extraordinary relief shall be in the
1319 form prescribed by Rule 9.100, Rules of Appellate Procedure, may
1320 include supporting documents, and shall recite in the statement
1321 of facts:

1322 1. The date and nature of the lower court's order sought
1323 to be reviewed.

1324 2. The name of the lower court rendering the order.

1325 3. The nature, disposition, and dates of all previous
1326 court proceedings.

1327 4. If a previous petition was filed, the reason the claim
1328 in the present petition was not raised previously.

1329 5. The nature of the relief sought.

1330 (c)1. A petition for belated appeal must include a
1331 detailed allegation of the specific acts sworn to by the
1332 petitioner or petitioner's counsel that constitute the basis for
1333 entitlement to belated appeal, including whether the petitioner
1334 requested counsel to proceed with the appeal and the date of
1335 such request, whether counsel misadvised the petitioner as to
1336 the availability of appellate review or the filing of the notice
1337 of appeal, or whether there were circumstances unrelated to
1338 counsel's action or inaction, including names of individuals
1339 involved and dates of the occurrences, that were beyond the
1340 petitioner's control and otherwise interfered with the
1341 petitioner's ability to file a timely appeal.

1342 2. A petition for belated appeal may not be filed more
1343 than 1 year after the expiration of time for filing the notice

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1344 of appeal from a final order denying relief pursuant to s.
1345 924.056 or s. 924.058, unless the petition alleges under oath
1346 with a specific factual basis that the petitioner:

1347 a. Was unaware an appeal had not been timely filed, was
1348 not advised of the right to an appeal, was misadvised as to the
1349 right to an appeal, or was prevented from timely filing a notice
1350 of appeal due to circumstances beyond the petitioner's control.

1351 b. Could not have ascertained such facts by the exercise
1352 of due diligence.

1353 (d) A petition alleging ineffective assistance of
1354 appellate counsel must include detailed allegations of the
1355 specific acts that constitute the alleged ineffective assistance
1356 of counsel on direct appeal and must be filed simultaneously
1357 with the initial brief in the appeal from the lower tribunal's
1358 final order denying relief pursuant to s. 924.056 or s. 924.058.

1359 (4) PETITIONS SEEKING RELIEF OF NONFINAL ORDERS.—

1360 (a) This subsection applies to proceedings that invoke the
1361 jurisdiction of the Florida Supreme Court for review of nonfinal
1362 orders issued in postconviction proceedings after the imposition
1363 of the death penalty. Review of such proceedings shall be
1364 treated as original proceedings under Rule 9.100, Rules of
1365 Appellate Procedure, except as otherwise provided in this
1366 subsection.

1367 (b) Jurisdiction of the Florida Supreme Court shall be
1368 invoked by filing a petition with the Clerk of the Florida
1369 Supreme Court within 30 days after rendition of the nonfinal
1370 order to be reviewed. A copy of the petition shall be served on
1371 the opposing party and furnished to the judge who issued the

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1372 order to be reviewed. Either party to the death penalty
1373 postconviction proceedings may seek review under this
1374 subsection.

1375 (c) The petition shall be in the form prescribed by Rule
1376 9.100, Rules of Appellate Procedure, and shall contain the
1377 following:

1378 1. The basis for invoking the court's jurisdiction.

1379 2. The date and nature of the order sought to be reviewed.

1380 3. The name of the lower tribunal rendering the order.

1381 4. The name, disposition, and dates of all previous trial,
1382 appellate, and postconviction proceedings relating to the
1383 conviction and death sentence that are the subject of the
1384 proceedings in which the order sought to be reviewed was
1385 entered.

1386 5. The facts on which the petitioner relies, with
1387 references to the appropriate pages of the supporting appendix.

1388 6. Arguments in support of the petition, including an
1389 explanation of why the order departs from the essential
1390 requirements of law and how the order may cause material injury
1391 for which there is no adequate remedy on appeal, and appropriate
1392 citations of authority.

1393 7. The nature of the relief sought.

1394 (d) The petition shall be accompanied by an appendix, as
1395 prescribed by Rule 9.220, Rules of Appellate Procedure, which
1396 shall contain the portions of the record necessary for a
1397 determination of the issues presented.

1398 (e) If the petition demonstrates a preliminary basis for
1399 relief or a departure from the essential requirements of law

1400 that may cause material injury for which there is no adequate
 1401 remedy by appeal, the court may issue an order directing the
 1402 respondent to show cause, within the time set by the court, why
 1403 relief should not be granted. No response shall be permitted
 1404 unless ordered by the court. Within 20 days after service of the
 1405 response or such other time set by the court, the petitioner may
 1406 serve a reply, which shall not exceed 15 pages in length,
 1407 exclusive of supplemental appendix.

1408 (f) A stay of proceedings under this subsection is not
 1409 automatic. The party seeking a stay must petition the Florida
 1410 Supreme Court for a stay of proceedings. During the pendency of
 1411 a review of a nonfinal order, unless a stay is granted by the
 1412 Florida Supreme Court, the lower tribunal may proceed with all
 1413 matters, except that the lower tribunal may not render a final
 1414 order disposing of the cause pending review of the nonfinal
 1415 order.

1416 (g) The parties may not file other pleadings, motions,
 1417 replies, or miscellaneous papers without leave of court.

1418 (h) Seeking review under this subsection shall not extend
 1419 the time limitations in s. 27.7081, s. 924.056, or s. 924.058.

1420 Section 25. Effective July 1, 2013, section 924.0585,
 1421 Florida Statutes, is created to read:

1422 924.0585 Capital postconviction proceedings; reporting
 1423 requirements.—

1424 (1) The Florida Supreme Court shall annually report to the
 1425 Speaker of the House of Representatives and the President of the
 1426 Senate the status of each capital case in which a postconviction
 1427 action has been filed that has been pending for more than 3

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1428 years. The report must include the name of the state court judge
1429 involved in the case.

1430 (2) In a capital postconviction proceeding in which it has
1431 been determined that an attorney of record was ineffective, the
1432 court making such determination shall furnish a copy of the
1433 findings of ineffectiveness to The Florida Bar for an
1434 appropriate disciplinary action. The Florida Bar shall submit an
1435 annual report to the Speaker of the House of Representatives and
1436 the President of the Senate listing the names of attorneys found
1437 ineffective, the findings of the court, and detailing what
1438 disciplinary action, if any, was taken by The Florida Bar. If no
1439 disciplinary action was taken, the report shall specify why no
1440 action was taken. An attorney who has been deemed ineffective in
1441 a capital case is ineligible to represent capital case
1442 defendants for 5 years.

1443 Section 26. Subsection (3) is added to section 924.0585,
1444 Florida Statutes, as created by this act, to read:

1445 924.0585 Capital postconviction proceedings; reporting
1446 requirements.—

1447 (3) A capital postconviction action filed in violation of
1448 the time limitations provided by statute is barred, and all
1449 claims raised therein are waived. A state court may not consider
1450 any capital postconviction action filed in violation of s.
1451 924.056 or s. 924.058. The Attorney General shall deliver to the
1452 Governor, the President of the Senate, and the Speaker of the
1453 House of Representatives a copy of any pleading or order that
1454 alleges or adjudicates any violation of this subsection.

1455 Section 27. Section 924.059, Florida Statutes, is amended

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1456 to read:
 1457 (Substantial rewording of section. See
 1458 s. 924.059, F.S., for present text.)
 1459 924.059 Conflicts of interest in capital postconviction
 1460 proceedings.—In any capital postconviction proceeding in which
 1461 it is alleged that there is a conflict of interest with
 1462 postconviction counsel, the court shall hold a hearing within 30
 1463 days after such allegation to determine whether an actual
 1464 conflict exists and whether such conflict will adversely affect
 1465 the performance of a defendant's lawyer. An actual conflict of
 1466 interest exists when an attorney actively represents conflicting
 1467 interests. To demonstrate an actual conflict, the defendant must
 1468 identify specific evidence suggesting that the defendant's
 1469 interests were or may be compromised. A possible, speculative,
 1470 or merely hypothetical conflict is insufficient to support an
 1471 allegation that a conflict of interest exists. The court must
 1472 rule within 10 days after the conclusion of the hearing.

1473 Section 28. Section 924.0591, Florida Statutes, is created
 1474 to read:

1475 924.0591 Incompetence to proceed in capital postconviction
 1476 proceedings.—

1477 (1) A death-sentenced inmate pursuing collateral relief
 1478 who is found by the court to be mentally incompetent shall not
 1479 be proceeded against if there are factual matters at issue, the
 1480 development or resolution of which require the inmate's input.
 1481 However, all collateral relief issues that involve only matters
 1482 of record and claims that do not require the inmate's input
 1483 shall proceed in collateral proceedings, notwithstanding the

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1484 inmate's incompetency.

1485 (2) If, at any stage of a postconviction proceeding, the
1486 court determines that there are reasonable grounds to believe
1487 that a death-sentenced inmate is incompetent to proceed and that
1488 factual matters are at issue, the development or resolution of
1489 which require the inmate's input, a judicial determination of
1490 incompetency is required.

1491 (3) Collateral counsel may file a motion for competency
1492 determination and an accompanying certificate of counsel that
1493 the motion is made in good faith and on reasonable grounds to
1494 believe that the death-sentenced inmate is incompetent to
1495 proceed. The motion and certificate shall replace the signed
1496 oath by the inmate that otherwise must accompany a
1497 postconviction motion filed under s. 924.056 and s. 924.058.

1498 (4) The motion for competency examination shall be in
1499 writing and shall allege with specificity the factual matters at
1500 issue and the reason that a competency consultation with the
1501 death-sentenced inmate is necessary with respect to each factual
1502 matter specified. To the extent that it does not invade the
1503 lawyer-client privilege with collateral counsel, the motion
1504 shall contain a recital of the specific observations of, and
1505 conversations with, the inmate that have formed the basis of the
1506 motion.

1507 (5) If the court finds that there are reasonable grounds
1508 to believe that a death-sentenced inmate is incompetent to
1509 proceed in a postconviction proceeding in which factual matters
1510 are at issue, the development or resolution of which require the
1511 inmate's input, the court shall order the inmate examined by no

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1512 more than three, nor fewer than two, experts before setting the
1513 matter for a hearing. The court may seek input from the inmate's
1514 counsel and the state attorney before appointment of the
1515 experts.

1516 (6) The order appointing experts shall:

1517 (a) Identify the purpose of the evaluation and specify the
1518 area of inquiry that should be addressed.

1519 (b) Specify the legal criteria to be applied.

1520 (c) Specify the date by which the report shall be
1521 submitted and to whom it shall be submitted.

1522 (7) Counsel for both the death-sentenced inmate and the
1523 state may be present at the examination, which shall be
1524 conducted at a date and time convenient for all parties and the
1525 Department of Corrections.

1526 (8) On appointment by the court, the experts shall examine
1527 the death-sentenced inmate with respect to the issue of
1528 competence to proceed, as specified by the court in its order
1529 appointing the experts to evaluate the inmate, and shall
1530 evaluate the inmate as ordered.

1531 (a) The experts first shall consider factors related to
1532 the issue of whether the death-sentenced inmate meets the
1533 criteria for competence to proceed by determining whether the
1534 inmate has sufficient present ability to consult with counsel
1535 with a reasonable degree of rational understanding and whether
1536 the inmate has a rational as well as factual understanding of
1537 the pending collateral proceedings.

1538 (b) In considering the issue of competence to proceed, the
1539 experts shall consider and include in their report:

1540 1. The inmate's capacity to understand the adversary
 1541 nature of the legal process and the collateral proceedings.

1542 2. The inmate's ability to disclose to collateral counsel
 1543 facts pertinent to the postconviction proceeding at issue.

1544 3. Any other factors considered relevant by the experts
 1545 and the court as specified in the order appointing the experts.

1546 (c) Any written report submitted by an expert shall:

1547 1. Identify the specific matters referred for evaluation.

1548 2. Describe the evaluative procedures, techniques, and
 1549 tests used in the examination and the purpose or purposes for
 1550 each.

1551 3. State the expert's clinical observations, findings, and
 1552 opinions on each issue referred by the court for evaluation, and
 1553 indicate specifically the issues, if any, on which the expert
 1554 could not give an opinion.

1555 4. Identify the sources of information used by the expert
 1556 and present the factual basis for the expert's clinical findings
 1557 and opinions.

1558 (9) If the experts find that the death-sentenced inmate is
 1559 incompetent to proceed, the experts shall report on the
 1560 recommended treatment for the inmate to attain competence to
 1561 proceed. In considering the issues relating to treatment, the
 1562 experts shall report on:

1563 (a) The mental illness or mental retardation causing the
 1564 incompetence.

1565 (b) The treatment or treatments appropriate for the mental
 1566 illness or mental retardation of the inmate and an explanation
 1567 of each of the possible treatment alternatives in order of

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1568 preference.

1569 (c) The likelihood of the inmate attaining competence
1570 under the treatment recommended, an assessment of the probable
1571 duration of the treatment required to restore competence, and
1572 the probability that the inmate will attain competence to
1573 proceed in the foreseeable future.

1574 (10) Within 30 days after the experts have completed their
1575 examinations of the death-sentenced inmate, the court shall
1576 schedule a hearing on the issue of the inmate's competence to
1577 proceed.

1578 (11) If, after a hearing, the court finds the death-
1579 sentenced inmate competent to proceed or, after having found the
1580 inmate incompetent, finds that competency has been restored, the
1581 court shall enter its order so finding and shall proceed with a
1582 postconviction motion. The inmate shall have 60 days to amend
1583 his or her postconviction motion only as to those issues that
1584 the court found required factual consultation with counsel.

1585 (12) If the court does not find the inmate incompetent,
1586 the order shall contain:

1587 (a) Findings of fact relating to the issues of competency.

1588 (b) Copies of the reports of the examining experts.

1589 (c) Copies of any other psychiatric, psychological, or
1590 social work reports submitted to the court relative to the
1591 mental state of the death-sentenced inmate.

1592 (13) If the court finds the death-sentenced inmate
1593 incompetent or finds the inmate competent subject to the
1594 continuation of appropriate treatment, the court shall follow
1595 the procedures in Rule 3.212(c), Florida Rules of Criminal

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1596 Procedure, except that, to the extent practicable, any treatment
1597 shall take place at a custodial facility under the direct
1598 supervision of the Department of Corrections.

1599 Section 29. Section 924.0592, Florida Statutes, is created
1600 to read:

1601 924.0592 Capital postconviction proceedings after a death
1602 warrant has been issued.—

1603 (1) This section governs all postconviction proceedings in
1604 a capital case in which the conviction and sentence of death is
1605 affirmed on direct appeal on or after July 1, 2015, and in which
1606 a death warrant has been issued.

1607 (2) Upon issuance of a death warrant pursuant to s.
1608 922.052 or s. 922.14, the issuing entity shall notify the chief
1609 judge of the circuit that sentenced the inmate to death. The
1610 chief judge shall assign the case to a judge qualified under the
1611 Rules of Judicial Administration to conduct capital cases
1612 immediately upon receipt of such notification.

1613 (3) Postconviction proceedings after a death warrant is
1614 issued shall take precedence over all other cases. The assigned
1615 judge shall make every effort to resolve scheduling conflicts
1616 with other cases, including cancellation or rescheduling of
1617 hearings or trials and requesting senior judge assistance.

1618 (4) The time limitations provided in s. 924.056 and s.
1619 924.058 do not apply after a death warrant has been issued. All
1620 postconviction motions filed after a death warrant has been
1621 issued shall be heard expeditiously considering the time
1622 limitations set by the date of execution and the time required
1623 for appellate review.

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1624 (5) The location of any hearing after a death warrant is
1625 issued shall be determined by the trial judge considering the
1626 availability of witnesses or evidence, the security problems
1627 involved in the case, and each other factor determined by the
1628 trial court.

1629 (6) All postconviction motions filed after a death warrant
1630 is issued shall be considered successive motions and subject to
1631 the content requirement of s. 924.058.

1632 (7) The assigned judge shall schedule a case management
1633 conference as soon as reasonably possible after receiving
1634 notification that a death warrant has been issued. During the
1635 case management conference the court shall set a time for filing
1636 a postconviction motion, shall schedule a hearing to determine
1637 whether an evidentiary hearing should be held, and shall hear
1638 arguments on any purely legal claims not based on disputed
1639 facts. If the postconviction motion, files, and records in the
1640 case conclusively show that the movant is entitled to no relief,
1641 the motion may be denied without an evidentiary hearing. If the
1642 trial court determines that an evidentiary hearing should be
1643 held, the court shall schedule the hearing to be held as soon as
1644 reasonably possible considering the time limitations set by the
1645 date of execution and the time required for appellate review.

1646 (8) The assigned judge shall require all proceedings
1647 conducted pursuant to this section to be reported using the most
1648 advanced and accurate technology available in general use at the
1649 location of the hearing. The proceedings shall be transcribed
1650 expeditiously considering the time limitations set by the
1651 execution date.

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1652 (9) The court shall obtain a transcript of all proceedings
1653 conducted pursuant to this section and shall render its order in
1654 accordance with s. 924.056(6) (e) as soon as possible after the
1655 hearing is concluded. A copy of the final order shall be
1656 electronically transmitted to the Florida Supreme Court and to
1657 the attorneys of record. The record shall be immediately
1658 delivered to the clerk of the Florida Supreme Court by the clerk
1659 of the trial court or as ordered by the assigned judge. The
1660 record shall also be electronically transmitted if the
1661 technology is available. A notice of appeal is not required to
1662 transmit the record.

1663 Section 30. Section 924.0593, Florida Statutes, is created
1664 to read:

1665 924.0593 Insanity at the time of scheduled execution.—

1666 (1) A person under sentence of death may not be executed
1667 while he or she is insane. A person under sentence of death is
1668 insane for purposes of this section if the person lacks the
1669 mental capacity to understand the fact of the impending
1670 execution and the reason for the execution.

1671 (2) A motion for a stay of execution pending hearing,
1672 based on grounds of the death-sentenced inmate's insanity to be
1673 executed, may be entertained by any court until such time as the
1674 Governor has held appropriate proceedings for determining the
1675 issue pursuant to s. 922.07.

1676 (3) (a) On determination of the Governor, subsequent to the
1677 signing of a death warrant for an inmate under sentence of death
1678 and pursuant to s. 922.07, that the death-sentenced inmate is
1679 sane and may be executed, counsel for the inmate may move for a

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1680 stay of execution and a hearing based on the inmate's insanity
1681 to be executed. The motion:

1682 1. Shall be filed in the circuit court of the circuit in
1683 which the execution is to take place and shall be heard by one
1684 of the judges of that circuit or such other judge as shall be
1685 assigned by the Chief Justice of the Florida Supreme Court to
1686 hear the motion. The state attorney of the circuit shall
1687 represent the state in any proceedings held on the motion.

1688 2. Shall be in writing and shall contain a certificate of
1689 counsel that the motion is made in good faith and on reasonable
1690 grounds to believe that the inmate is insane may not be
1691 executed.

1692 (b) Counsel for the inmate shall file, along with the
1693 motion, all reports of experts that were submitted to the
1694 Governor pursuant to s. 922.07. If any of the evidence is not
1695 available to counsel for the inmate, counsel shall attach to the
1696 motion an affidavit so stating, with an explanation of why the
1697 evidence is unavailable.

1698 (c) Counsel for the inmate and the state may submit such
1699 other evidentiary material and written submissions, including
1700 reports of experts on behalf of the inmate, that are relevant to
1701 determination of the issue.

1702 (d) A copy of the motion and all supporting documents
1703 shall be served on the Department of Legal Affairs and the state
1704 attorney of the circuit in which the motion has been filed.

1705 (4) If the circuit judge, upon review of the motion and
1706 submissions, has reasonable grounds to believe that the death-
1707 sentenced inmate is insane and may not be executed, the judge

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1708 shall grant a stay of execution and may order further
1709 proceedings, which may include a hearing.

1710 (5) Any hearing on the death-sentenced inmate's insanity
1711 to be executed shall not be a review of the Governor's
1712 determination, but shall be a hearing de novo. At the hearing,
1713 the issue the court must determine whether the inmate presently
1714 meets the criteria for insanity at time of execution, that is,
1715 whether the prisoner lacks the mental capacity to understand the
1716 fact of the pending execution and the reason for it.

1717 (6) The court may do any of the following as may be
1718 appropriate and adequate for a just resolution of the issues
1719 raised:

1720 (a) Require the presence of the death-sentenced inmate at
1721 the hearing;

1722 (b) Appoint no more than three disinterested mental health
1723 experts to examine the death-sentenced inmate with respect to
1724 the criteria for determining the inmate's sanity for purposes of
1725 this section and to report their findings and conclusions to the
1726 court; or

1727 (c) Enter such other orders as may be appropriate to
1728 effectuate a speedy and just resolution of the issues raised.

1729 (7) At hearings held pursuant to this section, the court
1730 may admit such evidence as the court deems relevant to the
1731 issues, including, but not limited to, the reports of expert
1732 witnesses. The court shall not be strictly bound by the rules of
1733 evidence.

1734 (8) If, at the conclusion of the hearing, the court finds
1735 by clear and convincing evidence that the death-sentenced inmate

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1736 is insane for purpose of this section, the court shall enter its
1737 order continuing the stay of the death warrant; otherwise, the
1738 court shall deny the motion and enter its order dissolving the
1739 stay of execution.

1740 Section 31. Section 924.0594, Florida Statutes, is created
1741 to read:

1742 924.0594 Dismissal of postconviction proceedings.—

1743 (1) This section applies only when a death-sentenced
1744 inmate seeks both to dismiss a pending postconviction
1745 proceedings and to discharge collateral counsel.

1746 (2) If a death-sentenced inmate files a motion to dismiss
1747 a pending postconviction motion and to discharge collateral
1748 counsel pro se, the clerk of the court shall serve copies of the
1749 motion on counsel of record for both the inmate and the state.
1750 Counsel of record may file responses within 10 days.

1751 (3) The trial judge shall review the motion and the
1752 responses and schedule a hearing. The death-sentenced inmate,
1753 collateral counsel, and the state shall be present at the
1754 hearing.

1755 (4) The judge shall examine the inmate at the hearing and
1756 shall hear argument of the death-sentenced inmate, collateral
1757 counsel, and the state. No fewer than two nor more than three
1758 qualified experts shall be appointed to examine the inmate if
1759 the judge concludes that there are reasonable grounds to believe
1760 the inmate is not mentally competent for purposes of this
1761 section. The experts shall file reports with the court setting
1762 forth their findings. Thereafter, the court shall conduct an
1763 evidentiary hearing and enter an order setting forth findings of

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1764 competency or incompetency.

1765 (5) If the death-sentenced inmate is found to be
1766 incompetent for purposes of this section, the court shall deny
1767 the motion without prejudice.

1768 (6) If the death-sentenced inmate is found to be competent
1769 for purposes of this section, the court shall conduct a complete
1770 inquiry that complies with the requirements of Durocher v.
1771 Singletary, 623 So. 2d 483 (Fla. 1993), and Faretta v.
1772 California, 422 U.S. 806 (1975), to determine whether the inmate
1773 knowingly, freely, and voluntarily wants to dismiss pending
1774 postconviction proceedings and discharge collateral counsel.

1775 (7) If the court determines that the death-sentenced
1776 inmate has made the decision to dismiss pending postconviction
1777 proceedings and discharge collateral counsel knowingly, freely,
1778 and voluntarily, the court shall enter an order dismissing all
1779 pending postconviction proceedings and discharging collateral
1780 counsel. If the court determines that the inmate has not made
1781 the decision to dismiss pending postconviction proceedings and
1782 discharge collateral counsel knowingly, freely, and voluntarily,
1783 the court shall enter an order denying the motion without
1784 prejudice.

1785 (8) If the court denies the motion, the death-sentenced
1786 inmate may seek review pursuant to s. 924.0581(3). If the court
1787 grants the motion:

1788 (a) A copy of the motion, order, and transcript of the
1789 hearing or hearings conducted on the motion shall be forwarded
1790 to the clerk of the Florida Supreme Court within 30 days.

1791 (b) Discharged counsel shall, within 10 days after

1792 issuance of the order, file with the clerk of the circuit court
 1793 two copies of a notice seeking review in the Supreme Court, and
 1794 shall, within 20 days after the filing of the transcript, serve
 1795 an initial brief. Both the inmate and the state may serve
 1796 responsive briefs.

1797 (9) (a) Within 10 days after the rendition of an order
 1798 granting a death-sentenced inmate's motion to discharge counsel
 1799 and dismiss the motion for postconviction relief, discharged
 1800 counsel must file with the clerk of the circuit court a notice
 1801 seeking review in the Supreme Court.

1802 (b) The circuit judge presiding over the motion to dismiss
 1803 and discharge counsel shall order a transcript of the hearing to
 1804 be prepared and filed with the clerk of the circuit court within
 1805 25 days after rendition of the final order. Within 30 days after
 1806 the granting of a motion to dismiss and discharge counsel, the
 1807 clerk of the circuit court shall forward a copy of the motion,
 1808 order, and transcripts of all hearings held on the motion to the
 1809 clerk of the Supreme Court.

1810 (c) Within 20 days after the filing of the record in the
 1811 Supreme Court, discharged counsel shall serve an initial brief.
 1812 Both the state and the prisoner may serve responsive briefs. All
 1813 briefs must be served and filed as prescribed by Rule 9.210 of
 1814 the Rules of Appellate Procedure.

1815 (d) The Supreme Court shall rule on the motion within 60
 1816 days after the last brief filing deadline.

1817 Section 32. If any provision of this act or the
 1818 application thereof to any person or circumstance is held
 1819 invalid, the invalidity does not affect other provisions or

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1820 | applications of the act which can be given effect without the
1821 | invalid provision or application, and to this end the provisions
1822 | of this act are declared severable.

1823 | Section 33. Except as otherwise provided herein, this act
1824 | shall take effect July 1, 2015, contingent upon voter approval
1825 | of HJR 7081, or a similar joint resolution having substantially
1826 | the same specific intent and purpose, in the General Election of
1827 | 2014.