

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>_____</u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee  
 2 Representative Gaetz offered the following:

3

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. This act may be cited as the "Timely Justice  
 7 Act of 2013."

8 Section 2. Subsection (1) of section 27.40, Florida  
 9 Statutes, is amended to read:

10 27.40 Court-appointed counsel; circuit registries; minimum  
 11 requirements; appointment by court.—

12 (1) Counsel shall be appointed to represent any individual  
 13 in a criminal or civil proceeding entitled to court-appointed  
 14 counsel under the Federal or State Constitution or as authorized  
 15 by general law. The court shall appoint a public defender to  
 16 represent indigent persons as authorized in s. 27.51. The office  
 17 of criminal conflict and civil regional counsel shall be  
 18 appointed to represent persons in those cases in which provision  
 19 is made for court-appointed counsel but the public defender is  
 20 unable to provide representation due to a conflict of interest

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21 or is not authorized to provide representation. Capital  
22 collateral regional counsel shall be appointed to represent  
23 persons as provided in s. 27.702.

24 Section 3. Paragraph (a) of subsection (5) of section  
25 27.51, Florida Statutes, is amended to read:

26 27.51 Duties of public defender.—

27 (5) (a) When direct appellate proceedings prosecuted by a  
28 public defender on behalf of an accused and challenging a  
29 judgment of conviction and sentence of death terminate in an  
30 affirmance of such conviction and sentence, whether by the  
31 Florida Supreme Court or by the United States Supreme Court or  
32 by expiration of any deadline for filing such appeal in a state  
33 or federal court, the public defender shall notify the accused  
34 of his or her rights pursuant to Rule 3.850, Florida Rules of  
35 Criminal Procedure, including any time limits pertinent thereto,  
36 and shall advise such person that representation in any  
37 collateral proceedings is the responsibility of the capital  
38 collateral regional counsel. The public defender shall then  
39 forward all original files on the matter to the capital  
40 collateral regional counsel, retaining such copies for his or  
41 her files as may be desired. ~~However, the trial court shall~~  
42 ~~retain the power to appoint the public defender or other~~  
43 ~~attorney not employed by the capital collateral regional counsel~~  
44 ~~to represent such person in proceedings for relief by executive~~  
45 ~~elemency pursuant to ss. 27.40 and 27.5303.~~

46 Section 4. Subsection (9) of section 27.511, Florida  
47 Statutes, is amended to read:

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48 27.511 Offices of criminal conflict and civil regional  
49 counsel; legislative intent; qualifications; appointment;  
50 duties.-

51 (9) When direct appellate proceedings prosecuted by the  
52 office of criminal conflict and civil regional counsel on behalf  
53 of an accused and challenging a judgment of conviction and  
54 sentence of death terminate in an affirmance of such conviction  
55 and sentence, whether by the Supreme Court or by the United  
56 States Supreme Court or by expiration of any deadline for filing  
57 such appeal in a state or federal court, the office of criminal  
58 conflict and civil regional counsel shall notify the accused of  
59 his or her rights pursuant to Rule 3.850, Florida Rules of  
60 Criminal Procedure, including any time limits pertinent thereto,  
61 and shall advise such person that representation in any  
62 collateral proceedings is the responsibility of the capital  
63 collateral regional counsel. The office of criminal conflict and  
64 civil regional counsel shall forward all original files on the  
65 matter to the capital collateral regional counsel, retaining  
66 such copies for his or her files as may be desired or required  
67 by law. ~~However, the trial court shall retain the power to~~  
68 ~~appoint the office of criminal conflict and civil regional~~  
69 ~~counsel or other attorney not employed by the capital collateral~~  
70 ~~regional counsel to represent such person in proceedings for~~  
71 ~~relief by executive clemency pursuant to ss. 27.40 and 27.5303.~~

72 Section 5. Subsection (4) of section 27.5303, Florida  
73 Statutes, is amended to read:

74 27.5303 Public defenders; criminal conflict and civil  
75 regional counsel; conflict of interest.-

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76 (4) (a) If a defendant is convicted and the death sentence  
77 is imposed, the appointed attorney shall continue representation  
78 through appeal to the Supreme Court. The attorney shall be  
79 compensated as provided in s. 27.5304. If the attorney first  
80 appointed is unable to handle the appeal, the court shall  
81 appoint another attorney and that attorney shall be compensated  
82 as provided in s. 27.5304.

83 ~~(b) The public defender or an attorney appointed pursuant~~  
84 ~~to this section may be appointed by the court rendering the~~  
85 ~~judgment imposing the death penalty to represent an indigent~~  
86 ~~defendant who has applied for executive clemency as relief from~~  
87 ~~the execution of the judgment imposing the death penalty.~~

88 (b)(e) When the appointed attorney in a capital case has  
89 completed the duties imposed by this section, the attorney shall  
90 file a written report in the trial court stating the duties  
91 performed by the attorney and apply for discharge.

92 Section 6. Paragraph (b) of subsection (5) of section  
93 27.5304, Florida Statutes, is amended to read:

94 27.5304 Private court-appointed counsel; compensation;  
95 notice.-

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

98 (b) If a death sentence is imposed and affirmed on appeal  
99 to the Supreme Court, the appointed attorney shall be allowed  
100 compensation, not to exceed \$1,000, for attorney fees and costs  
101 incurred in representing the defendant as to an application for  
102 executive clemency, with compensation to be paid out of general

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103 revenue from funds budgeted to the Justice Administrative  
104 Commission ~~Department of Corrections~~.

105 Section 7. Section 27.7001, Florida Statutes, is amended  
106 to read:

107 27.7001 Legislative intent and findings.—It is the intent  
108 of the Legislature to create part IV of this chapter, consisting  
109 of ss. 27.7001-27.711, inclusive, to provide for the collateral  
110 representation of any person convicted and sentenced to death in  
111 this state, so that collateral legal proceedings to challenge  
112 any Florida capital conviction and sentence may be commenced in  
113 a timely manner and so as to assure the people of this state  
114 that the judgments of its courts may be regarded with the  
115 finality to which they are entitled in the interests of justice.  
116 It is the further intent of the Legislature that collateral  
117 representation shall not include representation during retrials,  
118 resentencings, ~~proceedings commenced under chapter 940,~~ or civil  
119 litigation.

120 Section 8. Section 27.701, Florida Statutes, is amended to  
121 read:

122 27.701 Capital collateral regional counsel.—

123 ~~(1)~~ There are created three regional offices of capital  
124 collateral counsel, which shall be located in a northern,  
125 middle, and southern region of the state. The northern region  
126 shall consist of the First, Second, Third, Fourth, Eighth, and  
127 Fourteenth Judicial Circuits; the middle region shall consist of  
128 the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth,  
129 and Eighteenth Judicial Circuits; and the southern region shall  
130 consist of the Eleventh, Fifteenth, Sixteenth, Seventeenth,

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131 Nineteenth, and Twentieth Judicial Circuits. Each regional  
132 office shall be administered by a regional counsel. A regional  
133 counsel must be, and must have been for the preceding 5 years, a  
134 member in good standing of The Florida Bar or a similar  
135 organization in another state. Each capital collateral regional  
136 counsel shall be appointed by the Governor, and is subject to  
137 confirmation by the Senate. The Supreme Court Judicial  
138 Nominating Commission shall recommend to the Governor three  
139 qualified candidates for each appointment as regional counsel.  
140 The Governor shall appoint a regional counsel for each region  
141 from among the recommendations, or, if it is in the best  
142 interest of the fair administration of justice in capital cases,  
143 the Governor may reject the nominations and request submission  
144 of three new nominees by the Supreme Court Judicial Nominating  
145 Commission. Each capital collateral regional counsel shall be  
146 appointed to a term of 3 years. Vacancies in the office of  
147 capital collateral regional counsel shall be filled in the same  
148 manner as appointments. A person appointed as a regional counsel  
149 may not run for or accept appointment to any state office for 2  
150 years following vacation of office.

151 ~~(2) Notwithstanding the provisions of subsection (1), the~~  
152 ~~responsibilities of the regional office of capital collateral~~  
153 ~~counsel for the northern region of the state shall be met~~  
154 ~~through a pilot program using only attorneys from the registry~~  
155 ~~of attorneys maintained pursuant to s. 27.710. Each attorney~~  
156 ~~participating in the pilot must be qualified to provide~~  
157 ~~representation in federal court. The Auditor General shall~~  
158 ~~schedule a performance review of the pilot program to determine~~

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159 ~~the effectiveness and efficiency of using attorneys from the~~  
160 ~~registry compared to the capital collateral regional counsel.~~  
161 ~~The review, at a minimum, shall include comparisons of the~~  
162 ~~timeliness and costs of the pilot and the counsel and shall be~~  
163 ~~submitted to the President of the Senate and the Speaker of the~~  
164 ~~House of Representatives by January 30, 2007. The Legislature~~  
165 ~~may determine whether to convert the pilot program to a~~  
166 ~~permanent program after receipt of the Auditor General's review.~~

167 Section 9. Subsections (1) and (2) and paragraph (b) of  
168 subsection (4) of section 27.702, Florida Statutes, are amended  
169 to read:

170 27.702 Duties of the capital collateral regional counsel;  
171 reports.-

172 (1) The capital collateral regional counsel shall  
173 represent each person convicted and sentenced to death in this  
174 state for the sole purpose of instituting and prosecuting  
175 collateral actions challenging the legality of the judgment and  
176 sentence imposed against such person in the state courts,  
177 federal courts in this state, the United States Court of Appeals  
178 for the Eleventh Circuit, and the United States Supreme Court;  
179 and in proceedings commenced under chapter 940. ~~The capital~~  
180 ~~collateral regional counsel and the attorneys appointed pursuant~~  
181 ~~to s. 27.710 shall file only those postconviction or collateral~~  
182 ~~actions authorized by statute.~~ The three capital collateral  
183 regional counsel's offices shall function independently and be  
184 separate budget entities, and the regional counsel shall be the  
185 office heads for all purposes. The Justice Administrative  
186 Commission shall provide administrative support and service to

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187 the three offices to the extent requested by the regional  
188 counsel. The three regional offices shall not be subject to  
189 control, supervision, or direction by the Justice Administrative  
190 Commission in any manner, including, but not limited to,  
191 personnel, purchasing, transactions involving real or personal  
192 property, and budgetary matters.

193 (2) The capital collateral regional counsel shall represent  
194 persons convicted and sentenced to death within the region in  
195 collateral postconviction proceedings and proceedings under  
196 chapter 940, unless a court appoints or permits other counsel to  
197 appear as counsel of record.

198 (4)

199 (b) Each capital collateral regional counsel ~~and each~~  
200 ~~attorney participating in the pilot program in the northern~~  
201 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report  
202 to the President of the Senate and the Speaker of the House of  
203 Representatives which details the number of hours worked by  
204 investigators and legal counsel per case and the amounts per  
205 case expended during the preceding quarter in investigating and  
206 litigating capital collateral cases.

207 Section 10. Section 27.703, Florida Statutes, is amended  
208 to read:

209 27.703 Conflict of interest and substitute counsel.-

210 (1) The capital collateral regional counsel shall not  
211 accept an appointment or take any other action that will create  
212 an actual conflict of interest. If, at any time during the  
213 representation of a person, the capital collateral regional  
214 counsel alleges ~~determines~~ that the continued representation of



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215 that person creates an actual conflict of interest, the  
216 sentencing court shall, upon determining that an actual conflict  
217 exists ~~application by the regional counsel~~, designate another  
218 regional counsel. If the replacement regional counsel alleges  
219 that an actual conflict of interest exists, the sentencing court  
220 shall, upon determining that an actual conflict exists and, only  
221 if a conflict exists with the other two counsel, appoint one or  
222 more members of The Florida Bar who meets the requirements of s.  
223 27.710 and who is not disqualified pursuant to s. 27.7045 to  
224 represent the person one or more of such persons. An actual  
225 conflict of interest exists when an attorney actively represents  
226 conflicting interests. A possible, speculative, or merely  
227 hypothetical conflict is insufficient to support an allegation  
228 that a conflict of interest exists.

229 (2) Appointed counsel shall be paid from funds  
230 appropriated to the Chief Financial Officer. The hourly rate may  
231 not exceed \$100. However, all appointments of private counsel  
232 under this section shall be in accordance with ss. 27.710 and  
233 27.711.

234 (3) Capital collateral regional ~~Prior to employment,~~  
235 counsel appointed pursuant to this section must have  
236 participated in at least five felony jury trials, five felony  
237 appeals, or five capital postconviction evidentiary hearings, or  
238 any combination of at least five of such proceedings, and must  
239 not be disqualified pursuant to s. 27.7045.

240 Section 11. Section 27.7045, Florida Statutes, is created  
241 to read:

242 27.7045 Capital case proceedings; constitutionally

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243 deficient representation.— Notwithstanding any other provision  
244 of law, an attorney employed by the state of Florida or  
245 appointed pursuant to s. 27.711 may not represent a person  
246 charged with a capital offense at trial or on direct appeal, or  
247 a person sentenced to death in a postconviction proceeding if,  
248 in two separate instances, a court, in a capital postconviction  
249 proceeding, determined that such attorney provided  
250 constitutionally deficient representation and relief was granted  
251 as a result. This prohibition on representation shall be for a  
252 period of five years, which commences at the time relief is  
253 granted after the highest court having jurisdiction to review  
254 the deficient representation determination has issued its final  
255 order affirming the second such determination.

256 Section 12. Section 27.7081, Florida Statutes, is amended  
257 to read:

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

260 27.7081 Capital postconviction public records production.—

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

262 (a) "Agency" has the same meaning as provided in s.  
263 119.011.

264 (b) "Collateral counsel" means a capital collateral  
265 regional counsel from one of the three regions in Florida, a  
266 private attorney who has been appointed to represent a capital  
267 defendant for postconviction litigation, or a private attorney  
268 who has been hired by the capital defendant or who has agreed to  
269 work pro bono for a capital defendant for postconviction  
270 litigation.

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

273 (d) "Trial court" means:

274 1. The judge who entered the judgment and imposed the  
275 sentence of death; or

276 2. If a motion for postconviction relief in a capital case  
277 has been filed and a different judge has already been assigned  
278 to that motion, the judge who is assigned to rule on that  
279 motion.

280 (2) APPLICABILITY AND SCOPE.—This section only applies to  
281 the production of public records for capital postconviction  
282 defendants and does not change or alter the time periods  
283 specified in Rule 3.851, Florida Rules of Criminal Procedure.  
284 Furthermore, this section does not affect, expand, or limit the  
285 production of public records for any purpose other than use in a  
286 proceeding held pursuant to Rule 3.850 or Rule 3.851, Florida  
287 Rules of Criminal Procedure. This section shall not be a basis  
288 for renewing public records requests that have been initiated  
289 previously or for relitigating issues pertaining to production  
290 of public records upon which a court has ruled before July 1,  
291 2013. Public records requests made in postconviction proceedings  
292 in capital cases in which the conviction and sentence of death  
293 have been affirmed on direct appeal before July 1, 2013, shall  
294 be governed by the rules and laws in effect immediately before  
295 July 1, 2013.

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

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299 (4) FILING AND SERVICE.—

300 (a) The original of all notices, requests, or objections  
301 filed under this section must be filed with the clerk of the  
302 trial court. Copies must be served on the trial court, the  
303 attorney general, the state attorney, collateral counsel, and  
304 any affected person or agency, unless otherwise required by this  
305 section.

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

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

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

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

316 (a) Within 15 days after receiving written notification of  
317 the Florida Supreme Court's mandate affirming the sentence of  
318 death, the attorney general shall file with the trial court a  
319 written notice of the mandate and serve a copy of the notice  
320 upon the state attorney who prosecuted the case, the Department  
321 of Corrections, and the defendant's trial counsel. The notice to  
322 the state attorney shall direct the state attorney to submit  
323 public records to the records repository within 90 days after  
324 receipt of written notification and to notify each law  
325 enforcement agency involved in the investigation of the capital  
326 offense to submit public records to the records repository

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327 within 90 days after receipt of written notification. The notice  
328 to the Department of Corrections shall direct the department to  
329 submit public records to the records repository within 90 days  
330 after receipt of written notification.

331 (b) Within 90 days after receiving written notification of  
332 issuance of the Florida Supreme Court's mandate affirming a  
333 death sentence, the state attorney shall provide written  
334 notification to the attorney general of the name and address of  
335 an additional person or agency that has public records pertinent  
336 to the case.

337 (c) Within 90 days after receiving written notification of  
338 issuance of the Florida Supreme Court's mandate affirming a  
339 death sentence, the defendant's trial counsel shall provide  
340 written notification to the attorney general of the name and  
341 address of a person or agency with information pertinent to the  
342 case which has not previously been provided to collateral  
343 counsel.

344 (d) Within 15 days after receiving written notification of  
345 any additional person or agency pursuant to paragraph (b) or  
346 paragraph (c), the attorney general shall notify all persons or  
347 agencies identified pursuant to paragraph (b) or paragraph (c)  
348 that these persons or agencies are required by law to copy,  
349 index, and deliver to the records repository all public records  
350 pertaining to the case that are in their possession. The person  
351 or agency shall bear the costs related to copying, indexing, and  
352 delivering the records.

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

354 (a) Within 15 days after receipt of a written notice of

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355 the mandate from the attorney general, the state attorney shall  
356 provide written notification to each law enforcement agency  
357 involved in the specific case to submit public records to the  
358 records repository within 90 days after receipt of written  
359 notification. A copy of the notice shall be served upon the  
360 defendant's trial counsel.

361 (b) Within 90 days after receipt of a written notice of  
362 the mandate from the attorney general, the state attorney shall  
363 copy, index, and deliver to the records repository all public  
364 records that were produced in the state attorney's investigation  
365 or prosecution of the case. The state attorney shall bear the  
366 costs. The state attorney shall also provide written  
367 notification to the attorney general of compliance with this  
368 section, including certifying that, to the best of the state  
369 attorney's knowledge or belief, all public records in the state  
370 attorney's possession have been copied, indexed, and delivered  
371 to the records repository as required by this section.

372 (c) Within 90 days after receipt of written notification  
373 of the mandate from the attorney general, the Department of  
374 Corrections shall, at its own expense, copy, index, and deliver  
375 to the records repository all public records determined by the  
376 department to be relevant to the subject matter of a proceeding  
377 under Rule 3.851, Florida Rules of Criminal Procedure, unless  
378 such copying, indexing, and delivering would be unduly  
379 burdensome. The secretary of the department shall provide  
380 written notification to the attorney general of compliance with  
381 this paragraph certifying that, to the best of the secretary of  
382 the department's knowledge or belief, all such public records in

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383 the possession of the secretary of the department have been  
384 copied, indexed, and delivered to the records repository.

385 (d) Within 90 days after receipt of written notification  
386 of the mandate from the state attorney, a law enforcement agency  
387 shall, at its own expense, copy, index, and deliver to the  
388 records repository all public records that were produced in the  
389 investigation or prosecution of the case. The chief law  
390 enforcement officer of each law enforcement agency shall provide  
391 written notification to the attorney general of compliance with  
392 this paragraph including certifying that, to the best of the  
393 chief law enforcement officer's knowledge or belief, all such  
394 public records in possession of the agency or in possession of  
395 an employee of the agency, have been copied, indexed, and  
396 delivered to the records repository.

397 (e) Within 90 days after receipt of written notification  
398 of the mandate from the attorney general, each additional person  
399 or agency identified pursuant to paragraph (5) (b) or paragraph  
400 (5) (c) shall copy, index, and deliver to the records repository  
401 all public records which were produced during the prosecution of  
402 the case. The person or agency shall bear the costs. The person  
403 or agency shall provide written notification to the attorney  
404 general of compliance with this subdivision and shall certify,  
405 to the best of the person or agency's knowledge and belief, all  
406 such public records in the possession of the person or agency  
407 have been copied, indexed, and delivered to the records  
408 repository.

409 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.-

410 (a) Public records delivered to the records repository

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411 pursuant to this section that are confidential or exempt from  
412 the requirements of s. 119.07(1) or article I, section 24(a), of  
413 the Constitution, must be separately contained, without being  
414 redacted, and sealed. The outside of the container must clearly  
415 identify that the public record is confidential or exempt and  
416 that the seal may not be broken without an order of the trial  
417 court. The outside of the container must identify the nature of  
418 the public records and the legal basis for the exemption.

419 (b) Upon the entry of an appropriate court order, sealed  
420 containers subject to an inspection by the trial court shall be  
421 shipped to the clerk of court. The containers may be opened only  
422 for inspection by the trial court. The moving party shall bear  
423 all costs associated with the transportation and inspection of  
424 such records by the trial court.

425 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.-

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

431 (b) Within 90 days after receipt of the written demand,  
432 each person or agency notified under this subsection shall  
433 deliver to the records repository additional public records in  
434 the possession of the person or agency that pertain to the case  
435 and shall certify to the best of the person or agency's  
436 knowledge and belief that all additional public records have  
437 been delivered to the records repository or, if no additional  
438 public records are found, shall recertify that the public



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439 records previously delivered are complete.

440 (c) Within 60 days after receipt of the written demand, a  
441 person or agency may file with the trial court an objection to  
442 the written demand described in paragraph (a). The trial court  
443 may order a person or agency to produce additional public  
444 records if the court determines that:

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

447 2. Collateral counsel's written demand identifies, with  
448 specificity, those additional public records that are not at the  
449 records repository.

450 3. The additional public records sought are relevant to  
451 the subject matter of a postconviction proceeding under Rule  
452 3.851, Florida Rules of Criminal Procedure, or appear reasonably  
453 calculated to lead to the discovery of admissible evidence.

454 4. The additional public records request is not overly  
455 broad or unduly burdensome.

456 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL  
457 RECORDS.—

458 (a) In order to obtain public records in addition to those  
459 provided under subsections (6), (7), and (8), collateral counsel  
460 must file an affidavit in the trial court which:

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

463 2. Identifies with specificity those public records not at  
464 the records repository.

465 3. Establishes that the additional public records are  
466 either relevant to the subject matter of the postconviction

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467 proceeding or are reasonably calculated to lead to the discovery  
468 of admissible evidence.

469 4. Must be served in accordance with subsection (4).

470 (b) The trial court may order a person or agency to  
471 produce additional public records only upon finding that:

472 1. Collateral counsel has made a timely and diligent  
473 search of the records repository.

474 2. Collateral counsel's affidavit identifies with  
475 specificity those additional public records that are not at the  
476 records repository.

477 3. The additional public records sought are either  
478 relevant to the subject matter of a capital postconviction  
479 proceeding or appear reasonably calculated to lead to the  
480 discovery of admissible evidence.

481 4. The additional records request is not overly broad or  
482 unduly burdensome.

483 (10) COPYING RECORDS.— The Secretary of State shall  
484 provide the personnel, supplies, and any necessary equipment to  
485 copy records held at the records repository.

486 (11) AUTHORITY OF THE COURT.—In proceedings under this  
487 section the trial court may:

488 (a) Compel or deny disclosure of records.

489 (b) Conduct an inspection in camera.

490 (c) Extend the time periods in this section upon a showing  
491 of good cause.

492 (d) Impose sanctions upon a party, person, or agency  
493 affected by this section, including initiating contempt  
494 proceedings, taxing expenses, extending time periods, ordering

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495 facts to be established, and granting other relief.

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

498 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION  
499 ISSUES.—

500 (a) Unless otherwise limited, the scope of production  
501 under any part of this section shall be that the public records  
502 sought are not privileged or immune from production and are  
503 either relevant to the subject matter of a postconviction  
504 proceeding under Rule 3.851, Florida Rules of Criminal  
505 Procedure, or are reasonably calculated to lead to the discovery  
506 of admissible evidence.

507 (b) Counsel for a party objecting or moving to compel  
508 production of public records pursuant to this section must file  
509 a copy of the objection or motion directly with the trial court.

510 (c) The trial court may order mediation for a controversy  
511 as to public records production pursuant to this section in  
512 accord with Rules 1.700, 1.710, 1.720, and 1.730, Florida Rules  
513 of Civil Procedure, or the trial court may refer such  
514 controversy to a magistrate in accord with Rule 1.490, Florida  
515 Rules of Civil Procedure.

516 (13) DESTRUCTION OF RECORDS.—Sixty days after a capital  
517 sentence is carried out, after a defendant is released from  
518 incarceration after the granting of a pardon or reversal of the  
519 sentence, or after a defendant has been resentenced to a term of  
520 years, the attorney general shall provide written notification  
521 of this occurrence to the Secretary of State. After the  
522 expiration of the 60 days, the Secretary of State may destroy

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523 the copies of the records held by the records repository that  
524 pertain to that case, unless an objection to the destruction is  
525 filed in the trial court and served upon the Secretary of State.  
526 If no objection is served within the 60-day period, the records  
527 may then be destroyed. If an objection is served, the records  
528 shall not be destroyed until a final disposition of the  
529 objection.

530 Section 13. Subsections (1), (2), (3), and (4) of section  
531 27.710, Florida Statutes, are amended to read:

532 27.710 Registry of attorneys applying to represent persons  
533 in postconviction capital collateral proceedings; certification  
534 of minimum requirements; appointment by trial court.-

535 (1) The executive director of the Justice Administrative  
536 Commission shall compile and maintain a statewide registry of  
537 attorneys in private practice who have certified that they meet  
538 the minimum requirements of s. 27.704(2), who have participated  
539 in at least two capital trials or two capital sentencing  
540 proceedings, who are available for appointment by the court  
541 under this section to represent persons convicted and sentenced  
542 to death in this state in postconviction collateral proceedings,  
543 and who have attended within the last year a continuing legal  
544 education program of at least 10 hours' duration devoted  
545 specifically to the defense of capital cases, if available.  
546 Continuing legal education programs meeting the requirements of  
547 this rule offered by The Florida Bar or another recognized  
548 provider and approved for continuing legal education credit by  
549 The Florida Bar shall satisfy this requirement. The failure to  
550 comply with this requirement may be cause for removal from the

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551 list until the requirement is fulfilled. To ensure that  
552 sufficient attorneys are available for appointment by the court,  
553 when the number of attorneys on the registry falls below 50, the  
554 executive director shall notify the chief judge of each circuit  
555 by letter and request the chief judge to promptly submit the  
556 names of at least three private attorneys who regularly practice  
557 criminal law in that circuit and who appear to meet the minimum  
558 requirements to represent persons in postconviction capital  
559 collateral proceedings. The executive director shall send an  
560 application to each attorney identified by the chief judge so  
561 that the attorney may register for appointment as counsel in  
562 postconviction capital collateral proceedings. As necessary, the  
563 executive director may also advertise in legal publications and  
564 other appropriate media for qualified attorneys interested in  
565 registering for appointment as counsel in postconviction capital  
566 collateral proceedings. Not later than September 1 of each year,  
567 and as necessary thereafter, the executive director shall  
568 provide to the Chief Justice of the Supreme Court, the chief  
569 judge and state attorney in each judicial circuit, and the  
570 Attorney General a current copy of its registry of attorneys who  
571 are available for appointment as counsel in postconviction  
572 capital collateral proceedings. The registry must be indexed by  
573 judicial circuit and must contain the requisite information  
574 submitted by the applicants in accordance with this section.

575 (2) To be eligible for court appointment as counsel in  
576 postconviction capital collateral proceedings, an attorney must  
577 certify on an application provided by the executive director  
578 that he or she satisfies the minimum requirements for private

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579 counsel set forth in s. 27.704(2) and that he or she has  
580 participated in at least two capital trials or two capital  
581 sentencing proceedings.

582 (3) An attorney who applies for registration and court  
583 appointment as counsel in postconviction capital collateral  
584 proceedings must certify that he or she is counsel of record in  
585 not more than nine ~~four~~ such proceedings and, if appointed to  
586 represent a person in postconviction capital collateral  
587 proceedings, shall continue such representation under the terms  
588 and conditions set forth in s. 27.711 until the sentence is  
589 reversed, reduced, or carried out or unless permitted to  
590 withdraw from representation by the trial court. The court may  
591 not permit an attorney to withdraw from representation without a  
592 finding of sufficient good cause. The court may impose  
593 appropriate sanctions if it finds that an attorney has shown bad  
594 faith with respect to continuing to represent a defendant in a  
595 postconviction capital collateral proceeding. This section does  
596 not preclude the court from reassigning a case to a capital  
597 collateral regional counsel following discontinuation of  
598 representation if a conflict of interest no longer exists with  
599 respect to the case.

600 (4) Each private attorney who is appointed by the court to  
601 represent a capital defendant must enter into a contract with  
602 the Justice Administrative Commission ~~Chief Financial Officer~~.  
603 If the appointed attorney fails to execute the contract within  
604 30 days after the date the contract is mailed to the attorney,  
605 the executive director shall notify the trial court. The Justice  
606 Administrative Commission ~~Chief Financial Officer~~ shall develop

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607 ~~the form of the contract,~~ function as contract manager, and  
608 enforce performance of the terms and conditions of the contract.  
609 The Justice Administrative Commission shall approve uniform  
610 contract forms for use in procuring the services of private  
611 court-appointed counsel and uniform procedures and forms for use  
612 by a court-appointed attorney in support of billing for attorney  
613 fees, costs, and related expenses to demonstrate attorney  
614 completion of specified duties. By signing such contract, the  
615 attorney certifies that he or she intends to continue the  
616 representation under the terms and conditions set forth in the  
617 contract until the sentence is reversed, reduced, or carried out  
618 or until released by order of the trial court.

619 Section 14. Subsections (3), (4), (5), (6), (7), (9),  
620 (12), (13), and (14) of section 27.711, Florida Statutes, are  
621 amended to read:

622 27.711 Terms and conditions of appointment of attorneys as  
623 counsel in postconviction capital collateral proceedings.-

624 (3) An attorney appointed to represent a capital defendant  
625 is entitled to payment of the fees set forth in this section  
626 only upon full performance by the attorney of the duties  
627 specified in this section and approval of payment by the trial  
628 court, and the submission of a payment request by the attorney,  
629 subject to the availability of sufficient funding specifically  
630 appropriated for this purpose. ~~An attorney may not be~~  
631 ~~compensated under this section for work performed by the~~  
632 ~~attorney before July 1, 2003, while employed by the northern~~  
633 ~~regional office of the capital collateral counsel.~~ The Justice  
634 Administrative Commission ~~Chief Financial Officer~~ shall notify

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635 ~~the executive director and~~ the court if it appears that  
636 sufficient funding has not been specifically appropriated for  
637 this purpose to pay any fees which may be incurred. The attorney  
638 shall maintain appropriate documentation, including a current  
639 and detailed hourly accounting of time spent representing the  
640 capital defendant. The fee and payment schedule in this section  
641 is the exclusive means of compensating a court-appointed  
642 attorney who represents a capital defendant. When appropriate, a  
643 court-appointed attorney must seek further compensation from the  
644 Federal Government, as provided in 18 U.S.C. s. 3006A or other  
645 federal law, in habeas corpus litigation in the federal courts.

646 (4) Upon approval by the trial court, an attorney  
647 appointed to represent a capital defendant under s. 27.710 is  
648 entitled to payment of the following fees by the Justice  
649 Administrative Commission Chief Financial Officer:

650 (a) Regardless of the stage of postconviction capital  
651 collateral proceedings, the attorney is entitled to \$100 per  
652 hour, up to a maximum of \$2,500, after accepting appointment and  
653 filing a notice of appearance.

654 (b) The attorney is entitled to \$100 per hour, up to a  
655 maximum of \$20,000, after timely filing in the trial court the  
656 capital defendant's complete original motion for postconviction  
657 relief under the Florida Rules of Criminal Procedure. The motion  
658 must raise all issues to be addressed by the trial court.  
659 However, an attorney is entitled to fees under this paragraph if  
660 the court schedules a hearing on a matter that makes the filing  
661 of the original motion for postconviction relief unnecessary or  
662 if the court otherwise disposes of the case.



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663 (c) The attorney is entitled to \$100 per hour, up to a  
664 maximum of \$20,000, after the trial court issues a final order  
665 granting or denying the capital defendant's motion for  
666 postconviction relief.

667 (d) The attorney is entitled to \$100 per hour, up to a  
668 maximum of \$20,000, after timely filing in the Supreme Court the  
669 capital defendant's brief or briefs that address the trial  
670 court's final order granting or denying the capital defendant's  
671 motion for postconviction relief and the state petition for writ  
672 of habeas corpus.

673 (e) The attorney is entitled to \$100 per hour, up to a  
674 maximum of \$10,000, after the trial court issues an order,  
675 pursuant to a remand from the Supreme Court, which directs the  
676 trial court to hold further proceedings on the capital  
677 defendant's motion for postconviction relief.

678 (f) The attorney is entitled to \$100 per hour, up to a  
679 maximum of \$4,000, after the appeal of the trial court's denial  
680 of the capital defendant's motion for postconviction relief and  
681 the capital defendant's state petition for writ of habeas corpus  
682 become final in the Supreme Court.

683 (g) At the conclusion of the capital defendant's  
684 postconviction capital collateral proceedings in state court,  
685 the attorney is entitled to \$100 per hour, up to a maximum of  
686 \$2,500, after filing a petition for writ of certiorari in the  
687 Supreme Court of the United States.

688 (h) If, at any time, a death warrant is issued, the  
689 attorney is entitled to \$100 per hour, up to a maximum of  
690 \$5,000. This payment shall be full compensation for attorney's

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691 fees and costs for representing the capital defendant throughout  
692 the proceedings before the state courts of Florida.

693

694 The hours billed by a contracting attorney under this subsection  
695 may include time devoted to representation of the defendant by  
696 another attorney who is qualified under s. 27.710 and who has  
697 been designated by the contracting attorney to assist him or  
698 her.

699 (5) An attorney who represents a capital defendant may use  
700 the services of one or more investigators to assist in  
701 representing a capital defendant. Upon approval by the trial  
702 court, the attorney is entitled to payment from the Justice  
703 Administrative Commission ~~Chief Financial Officer~~ of \$40 per  
704 hour, up to a maximum of \$15,000, for the purpose of paying for  
705 investigative services.

706 (6) An attorney who represents a capital defendant is  
707 entitled to a maximum of \$15,000 for miscellaneous expenses,  
708 such as the costs of preparing transcripts, compensating expert  
709 witnesses, and copying documents. Upon approval by the trial  
710 court, the attorney is entitled to payment by the Justice  
711 Administrative Commission ~~Chief Financial Officer~~ of up to  
712 \$15,000 for miscellaneous expenses, except that, if the trial  
713 court finds that extraordinary circumstances exist, the attorney  
714 is entitled to payment in excess of \$15,000.

715 (7) An attorney who is actively representing a capital  
716 defendant is entitled to a maximum of \$500 per fiscal year for  
717 tuition and expenses for continuing legal education that  
718 pertains to the representation of capital defendants. Upon

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719 approval by the trial court, the attorney is entitled to payment  
720 by the Justice Administrative Commission ~~Chief Financial Officer~~  
721 for expenses for such tuition and continuing legal education.

722 (9) An attorney may not represent more than ten five  
723 defendants in capital postconviction litigation at any one time.

724 (12) The court shall monitor the performance of assigned  
725 counsel to ensure that the capital defendant is receiving  
726 quality representation. The court shall also receive and  
727 evaluate allegations that are made regarding the performance of  
728 assigned counsel. The Justice Administrative Commission ~~Chief~~  
729 ~~Financial Officer~~, the Department of Legal Affairs, ~~the~~  
730 ~~executive director~~, or any interested person may advise the  
731 court of any circumstance that could affect the quality of  
732 representation, including, but not limited to, false or  
733 fraudulent billing, misconduct, failure to meet continuing legal  
734 education requirements, solicitation to receive compensation  
735 from the capital defendant, or failure to file appropriate  
736 motions in a timely manner.

737 (13) Prior to the filing of a motion for order approving  
738 payment of attorney's fees, costs, or related expenses, the  
739 assigned counsel shall deliver a copy of his intended billing,  
740 together with supporting affidavits and all other necessary  
741 documentation, to the Justice Administrative Commission ~~Chief~~  
742 ~~Financial Officer's named contract manager~~. The Justice  
743 Administrative Commission shall review the intended billing  
744 ~~contract manager shall have 10 business days from receipt to~~  
745 ~~review the billings, affidavit, and documentation for~~  
746 completeness and compliance with contractual and statutory

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747 requirements. If the Justice Administrative Commission ~~contract~~  
748 ~~manager~~ objects to any portion of the proposed billing, the  
749 objection and reasons therefor shall be communicated to the  
750 assigned counsel. The assigned counsel may thereafter file his  
751 or her motion for order approving payment of attorney's fees,  
752 costs, or related expenses together with supporting affidavits  
753 and all other necessary documentation. The motion must specify  
754 whether the Justice Administrative Commission ~~Chief Financial~~  
755 ~~Officer's contract manager~~ objects to any portion of the billing  
756 or the sufficiency of documentation and, if so, the reason  
757 therefor. A copy of the motions and attachments shall be served  
758 on the Justice Administrative Commission at least 5 business  
759 days before the date of a hearing. The Justice Administrative  
760 Commission has standing to appear before the court to contest  
761 any motion for an order approving payment of attorney fees,  
762 costs, or related expenses and may participate in a hearing on  
763 the motion by use of telephonic or other communication  
764 equipment. A copy of the motion and attachments shall be served  
765 on the Chief Financial Officer's contract manager, who shall  
766 have standing to file pleadings and appear before the court to  
767 contest any motion for order approving payment. The fact that  
768 the Justice Administrative Commission ~~Chief Financial Officer's~~  
769 ~~contract manager~~ has not objected to any portion of the billing  
770 or to the sufficiency of the documentation is not binding on the  
771 court, which retains primary authority and responsibility for  
772 determining the reasonableness of all billings for fees, costs,  
773 and related expenses, subject to statutory limitations.

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774 ~~(14) Each attorney participating in the pilot program in~~  
775 ~~the northern region pursuant to s. 27.701(2), as a condition of~~  
776 ~~payment pursuant to this section, shall report on the~~  
777 ~~performance measures adopted by the Legislature for the capital~~  
778 ~~collateral regional counsel.~~

779 Section 15. Section 922.095, Florida Statutes, is amended  
780 to read:

781 922.095 Grounds for death warrant; limitations of  
782 actions.—A person who is convicted and sentenced to death must  
783 pursue all possible collateral remedies in state court in  
784 accordance with the Florida Rules of Criminal Procedure ~~within~~  
785 ~~the time limits provided by statute. Failure to seek relief~~  
786 ~~within the statutory time limits constitutes grounds for~~  
787 ~~issuance of a death warrant under s. 922.052 or s. 922.14. Any~~  
788 ~~claim not pursued within the statutory time limits is barred. No~~  
789 ~~claim filed after the time required by law shall be grounds for~~  
790 ~~a judicial stay of any warrant.~~

791 Section 16. Section 922.052, Florida Statutes, is amended  
792 to read:

793 922.052 Issuance of warrant of execution.—

794 (1) When a person is sentenced to death, the clerk of the  
795 court shall prepare a certified copy of the record of the  
796 conviction and sentence, and the sheriff shall send the record  
797 to the Governor and the clerk of the Florida Supreme Court. The  
798 sentence shall not be executed until the Governor, or the  
799 Secretary of the Department of Corrections pursuant to s.  
800 922.14, issues a warrant, attaches it to the copy of the record,

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801 and transmits it to the warden, directing the warden to execute  
802 the sentence at a time designated in the warrant.

803 (2) If, for any reason, the sentence is not executed  
804 during the week designated, the warrant shall remain in full  
805 force and effect and the sentence shall be carried out as  
806 provided in s. 922.06.

807 Section 17. Subsection (1) of section 922.11, Florida  
808 Statutes, is amended to read:

809 922.11 Regulation of execution.—

810 (1) The warden of the state prison or a deputy designated  
811 by him or her shall be present at the execution. The warden  
812 shall set the day for execution within the week designated ~~by~~  
813 ~~the Governor~~ in the warrant.

814 Section 18. Section 922.14, Florida Statutes, is amended  
815 to read:

816 922.14 Issuance of warrant of execution ~~Sentence of death~~  
817 ~~unexecuted for unjustifiable reasons.—~~

818 (1) (a) The clerk of the Florida Supreme Court shall send a  
819 letter to the Secretary of the Department of Corrections  
820 certifying that a person convicted and sentenced to death,  
821 before or after the effective date of this act, has:

822 1. Completed such person's direct appeal and initial  
823 postconviction proceeding in state court, and habeas corpus  
824 proceeding and appeal therefrom in federal court; or

825 2. Allowed the time permitted for filing an initial  
826 postconviction motion in state court, and habeas corpus petition  
827 in federal court to expire.

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828 (b) Upon receiving the letter of certification from the  
829 clerk of the Florida Supreme Court, the Secretary of the  
830 Department of Corrections shall immediately issue a warrant for  
831 execution, directing the warden to execute the sentence within  
832 180 days, at a time designated in the warrant. The Secretary  
833 may not issue more than three warrants in any 90-day period,  
834 regardless of how many letters of certification he or she  
835 receives. If in any 90-day period the Secretary receives more  
836 than three letters of certification, the Secretary shall issue  
837 warrants on the three persons who were sentenced to death  
838 earliest.

839 (2) If a death sentence is not executed because of  
840 unjustified failure of the the Secretary of the Department of  
841 Corrections or the Governor to issue a warrant, or for any other  
842 unjustifiable reason, on application of the Department of Legal  
843 Affairs, the Supreme Court shall issue a warrant directing the  
844 sentence to be executed during a week designated in the warrant.

845 Section 19. Section 924.055, Florida Statutes, is amended  
846 to read:

847 924.055 Postconviction review in capital cases;  
848 legislative findings and intent.-

849 (1) It is the intent of the Legislature to reduce delays  
850 in capital cases and to ensure that all appeals and  
851 postconviction actions in capital cases are resolved as soon as  
852 possible ~~within 5 years~~ after the date a sentence of death is  
853 imposed in the circuit court. ~~All capital postconviction actions~~  
854 ~~must be filed as early as possible after the imposition of a~~  
855 ~~sentence of death which may be during a direct appeal of the~~

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856 ~~conviction and sentence.~~ A person sentenced to death or that  
857 person's capital postconviction counsel must file any  
858 postconviction legal action in compliance with the Florida Rules  
859 of Criminal Procedure ~~statutes of limitation established in s.~~  
860 ~~924.056 and elsewhere in this chapter. Except as expressly~~  
861 ~~allowed by s. 924.056(5), a person sentenced to death or that~~  
862 ~~person's capital postconviction counsel may not file more than~~  
863 ~~one postconviction action in a sentencing court and one appeal~~  
864 ~~therefrom to the Florida Supreme Court, unless authorized by~~  
865 ~~law.~~

866 ~~(2) It is the further intent of the Legislature that no~~  
867 ~~state resources be expended in violation of this act. In the~~  
868 ~~event that any state employee or party contracting with the~~  
869 ~~state violates the provisions of this act, the Attorney General~~  
870 ~~shall deliver to the Speaker of the House of Representatives and~~  
871 ~~the President of the Senate a copy of any court pleading or~~  
872 ~~order that describes or adjudicates a violation.~~

873 Section 20. Section 924.056, Florida Statutes, is amended  
874 to read:

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

877 924.056 Capital postconviction proceedings; reporting  
878 requirements.-

879 (1) The Florida Supreme Court shall annually report to the  
880 Speaker of the House of Representatives and the President of the  
881 Senate the status of each capital case in which a postconviction  
882 action has been filed that has been continuously pending for  
883 more than 3 years. The report must include the name of the state



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884 court judge involved in the case.

885 (2) In a capital postconviction proceeding in which it has  
886 been determined that an attorney of record provided  
887 constitutionally deficient representation and relief has been  
888 granted as a result of such determination, after the highest  
889 court having jurisdiction to review such determination has  
890 issued its final order affirming the determination, the court  
891 making such determination shall furnish a copy of the findings  
892 to The Florida Bar for appropriate disciplinary action.

893 Section 21. Section 924.057, Florida Statutes, is amended  
894 to read:

895 (Substantial rewording of section. See  
896 s. 924.057, F.S., for present text.)

897 924.057 Capital postconviction proceedings; legislative  
898 intent.--The legislature acknowledges the past efforts made by  
899 the judicial branch in establishing rules of criminal procedure  
900 that make the capital postconviction process fair and more  
901 efficient. The legislature also recognizes and commends the  
902 judicial branch for continuing these efforts by issuing  
903 Administrative Order AOSC13-11, which creates a Capital  
904 Postconviction Proceedings Subcommittee of the Criminal Court  
905 Steering Committee, and directs the Subcommittee to undertake a  
906 comprehensive review of capital postconviction proceedings, and  
907 to make recommendations to the Florida Supreme Court whether  
908 court rules should be amended to improve the overall efficiency  
909 of the capital postconviction process. In support of these  
910 efforts, the legislature expresses its intent that capital  
911 postconviction proceedings be conducted in accordance with court

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912 rules, and that courts strictly adhere to the timeframes and  
913 postconviction motion content requirements established therein.

914 Section 22. Sections 924.058, 924.059, and 924.395,  
915 Florida Statutes, are repealed.

916 Section 23. If any provision of this act or the  
917 application thereof to any person or circumstance is held  
918 invalid, the invalidity does not affect other provisions or  
919 applications of the act which can be given effect without the  
920 invalid provision or application, and to this end the provisions  
921 of this act are declared severable.

922 Section 24. Effective July 1, 2013, four full-time  
923 equivalent positions with associated salary and rate of 220,000  
924 are authorized and \$417,338 in recurring funds from the General  
925 Revenue Fund and \$14,832 in nonrecurring general revenue is  
926 appropriated to the Justice Administration Commission for the  
927 creation of the northern region office of the Capital Collateral  
928 Regional Counsel as provided in this act.

929 Section 25. This act shall take effect July 1, 2013.

930

931

932 **T I T L E A M E N D M E N T**

933 Remove everything before the enacting clause and insert:  
934 An act relating to the death penalty; providing a short title;  
935 amending s. 27.40, F.S.; requiring the court to appoint the  
936 capital collateral regional counsel to represent persons  
937 convicted and sentenced to death in clemency proceedings;  
938 amending s. 27.51, F.S.; removing the court's authority to  
939 appoint a public defender to represent a person convicted and

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940 sentenced to death in clemency proceedings; amending s. 27.511,  
941 F.S., removing the court's authority to appoint the office of  
942 criminal conflict and civil regional counsel to represent a  
943 person convicted and sentenced to death in clemency proceedings;  
944 amending s. 27.5303, F.S., removing the court's authority to  
945 appoint a public defender to represent an indigent person  
946 convicted and sentenced to death in clemency proceedings;  
947 amending s. 27.5304, F.S.; requiring funds used to compensate  
948 court-appointed attorneys who represent a person convicted and  
949 sentenced to death in clemency proceedings to be paid by the  
950 Justice Administrative Commission rather than the Department of  
951 Corrections; amending s. 27.7001, F.S.; removing legislative  
952 intent language indicating that collateral representation of  
953 persons convicted and sentenced to death should not include  
954 representation during clemency proceedings; repealing s.  
955 27.701(2), F.S., relating to a pilot project using registry  
956 attorneys to provide capital collateral counsel services in the  
957 northern region of the Capital Collateral Regional Counsel;  
958 amending s. 27.702, F.S., authorizing the capital collateral  
959 regional counsel to represent persons convicted and sentenced to  
960 death in clemency proceedings; removing language requiring the  
961 capital collateral regional counsel to only file postconviction  
962 actions authorized by statute; amending s. 27.703, F.S.;  
963 prohibiting the capital collateral regional counsel and  
964 replacement regional counsel from accepting an appointment or  
965 taking an action that creates an actual conflict of interest;  
966 describing actual conflict of interest; amending s. 27.7045,  
967 F.S.; prohibiting an attorney from representing a person charged

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968 with a capital offense in specified proceedings for five years  
969 if in two separate instances a court, in a capital  
970 postconviction proceeding, determined that the attorney provided  
971 constitutionally deficient representation and relief was  
972 granted; amending s. 27.7081, F.S.; providing definitions;  
973 establishing procedures for public records production in  
974 postconviction capital cases proceedings; amending s. 27.710,  
975 F.S.; requiring private registry attorneys appointed by the  
976 court to represent persons in postconviction capital proceedings  
977 to meet certain criteria; requiring private registry attorneys  
978 appointed by the court to represent persons in postconviction  
979 capital proceedings to contract with the Justice Administrative  
980 Commission rather than the Chief Financial Officer; specifying  
981 that the Justice Administrative Commission is the contract  
982 manager and requiring the Justice Administrative Commission to  
983 approve uniform contract forms and procedures; amending s.  
984 27.711, F.S.; replacing references to the "Chief Financial  
985 Officer" with "Justice Administrative Commission" for purposes  
986 of paying private registry attorneys appointed by the court to  
987 represent persons in postconviction capital proceedings;  
988 permitting private registry attorneys appointed by the court to  
989 represent persons in postconviction capital proceedings to  
990 represent no more than ten, rather than five, defendants in  
991 capital postconviction litigation at any one time; amending s.  
992 922.095, F.S.; requiring persons convicted and sentenced to  
993 death to pursue all possible collateral remedies in state court  
994 in accordance with the Florida Rules of Criminal Procedure  
995 rather than in accordance with statute; amending s. 922.052,

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996 F.S.; requiring the sheriff to send the record of a person's  
997 conviction and death sentence to the clerk of the Florida  
998 Supreme Court; specifying that a sentence shall not be executed  
999 until the Governor or Secretary of the Department of Corrections  
1000 issues a warrant; amending s. 922.11, F.S.; requiring the warden  
1001 to set the day for execution within the week designated in the  
1002 warrant; amending s. 922.14, F.S.; requiring the clerk of the  
1003 Florida Supreme Court to send a letter to the Secretary of the  
1004 Department of Corrections certifying that a person convicted and  
1005 sentenced to death meets certain criteria; requiring the  
1006 Secretary to immediately issue a warrant upon receipt of the  
1007 clerk's letter of certification directing the warden to execute  
1008 the sentence within 180 days; prohibiting the Secretary from  
1009 issuing more than three warrants in a 90-day period; specifying  
1010 how the Secretary shall select which warrants to issue if he or  
1011 she receives more than three letters of certification within a  
1012 90-day period; amending s. 924.055, F.S.; removing obsolete  
1013 language requiring capital postconviction motions to be filed in  
1014 accordance with statute; requiring capital postconviction  
1015 motions to be filed in accordance with the Florida Rules of  
1016 Criminal Procedure; amending s. 924.056, F.S.; requiring the  
1017 Florida Supreme Court to annually report certain information  
1018 regarding capital postconviction cases to the Legislature;  
1019 requiring courts to report specified findings of ineffective  
1020 assistance of counsel to The Florida Bar; amending s. 924.057,  
1021 F.S.; creating legislative intent regarding postconviction  
1022 proceedings in capital cases; repealing sections 924.058,  
1023 924.059, and 924.395, F.S.; relating to postconviction capital

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1024 case proceedings; providing for severability; providing an  
1025 appropriation; providing an effective date.