



528252

LEGISLATIVE ACTION

Senate

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House

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Senator Bradley moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (5) of section  
27.51, Florida Statutes, is amended to read:

27.51 Duties of public defender.—

(5) (a) When direct appellate proceedings prosecuted by a  
public defender on behalf of an accused and challenging a  
judgment of conviction and sentence of death terminate in an  
affirmance of such conviction and sentence, whether by the



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12 Florida Supreme Court or by the United States Supreme Court or  
13 by expiration of any deadline for filing such appeal in a state  
14 or federal court, the public defender shall notify the accused  
15 of his or her rights pursuant to Rule 3.850, Florida Rules of  
16 Criminal Procedure, including any time limits pertinent thereto,  
17 and shall advise such person that representation in any  
18 collateral proceedings is the responsibility of the capital  
19 collateral regional counsel. The public defender shall then  
20 forward all original files on the matter to the capital  
21 collateral regional counsel, retaining such copies for his or  
22 her files as may be desired. ~~However, the trial court shall~~  
23 ~~retain the power to appoint the public defender or other~~  
24 ~~attorney not employed by the capital collateral regional counsel~~  
25 ~~to represent such person in proceedings for relief by executive~~  
26 ~~elemency pursuant to ss. 27.40 and 27.5303.~~

27 Section 2. Subsection (9) of section 27.511, Florida  
28 Statutes, is amended to read:

29 27.511 Offices of criminal conflict and civil regional  
30 counsel; legislative intent; qualifications; appointment;  
31 duties.—

32 (9) When direct appellate proceedings prosecuted by the  
33 office of criminal conflict and civil regional counsel on behalf  
34 of an accused and challenging a judgment of conviction and  
35 sentence of death terminate in an affirmance of such conviction  
36 and sentence, whether by the Supreme Court or by the United  
37 States Supreme Court or by expiration of any deadline for filing  
38 such appeal in a state or federal court, the office of criminal  
39 conflict and civil regional counsel shall notify the accused of  
40 his or her rights pursuant to Rule 3.850, Florida Rules of



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41 Criminal Procedure, including any time limits pertinent thereto,  
42 and shall advise such person that representation in any  
43 collateral proceedings is the responsibility of the capital  
44 collateral regional counsel. The office of criminal conflict and  
45 civil regional counsel shall forward all original files on the  
46 matter to the capital collateral regional counsel, retaining  
47 such copies for his or her files as may be desired or required  
48 by law. ~~However, the trial court shall retain the power to~~  
49 ~~appoint the office of criminal conflict and civil regional~~  
50 ~~counsel or other attorney not employed by the capital collateral~~  
51 ~~regional counsel to represent such person in proceedings for~~  
52 ~~relief by executive clemency pursuant to ss. 27.40 and 27.5303.~~

53 Section 3. Subsection (4) of section 27.5303, Florida  
54 Statutes, is amended to read:

55 27.5303 Public defenders; criminal conflict and civil  
56 regional counsel; conflict of interest.—

57 (4) (a) If a defendant is convicted and the death sentence  
58 is imposed, the appointed attorney shall continue representation  
59 through appeal to the Supreme Court. The attorney shall be  
60 compensated as provided in s. 27.5304. If the attorney first  
61 appointed is unable to handle the appeal, the court shall  
62 appoint another attorney and that attorney shall be compensated  
63 as provided in s. 27.5304.

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

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



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

73 Section 4. Subsection (5) of section 27.5304, Florida  
74 Statutes, is amended to read:

75 27.5304 Private court-appointed counsel; compensation;  
76 notice.—

77 (5) The compensation for representation in a criminal  
78 proceeding may ~~shall~~ not exceed the following:

79 (a)~~1~~. For misdemeanors and juveniles represented at the  
80 trial level: \$1,000.

81 (b)~~2~~. For noncapital, nonlife felonies represented at the  
82 trial level: \$2,500.

83 (c)~~3~~. For life felonies represented at the trial level:  
84 \$3,000.

85 (d)~~4~~. For capital cases represented at the trial level:  
86 \$15,000. For purposes of this paragraph ~~subparagraph~~, a "capital  
87 case" is any offense for which the potential sentence is death  
88 and the state has not waived seeking the death penalty.

89 (e)~~5~~. For representation on appeal: \$2,000.

90 ~~(b) If a death sentence is imposed and affirmed on appeal  
91 to the Supreme Court, the appointed attorney shall be allowed  
92 compensation, not to exceed \$1,000, for attorney fees and costs  
93 incurred in representing the defendant as to an application for  
94 executive clemency, with compensation to be paid out of general  
95 revenue from funds budgeted to the Justice Administrative  
96 Commission.~~

97 Section 5. Section 940.031, Florida Statutes, is created to  
98 read:



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99           940.031 Clemency counsel when sentence of death has been  
100 imposed.-

101           (1) The Board of Executive Clemency may appoint private  
102 counsel to represent a person sentenced to death for relief by  
103 executive clemency at such time as the board deems appropriate  
104 for clemency consideration. The board shall maintain a list of  
105 private counsel available for appointment under this section.

106           (2) The appointed private counsel shall be compensated by  
107 the board up to \$10,000 for attorney fees and costs incurred in  
108 representing the person for relief by executive clemency, with  
109 compensation to be paid out of the General Revenue Fund from  
110 funds appropriated to the Parole Commission.

111           (3) It is the intent of the Legislature that the fee  
112 prescribed under this section be the full and complete  
113 compensation for appointed private counsel. It is further the  
114 intent of the Legislature that the fee in this section be  
115 prescribed for the purpose of providing counsel with notice of  
116 the limit on the amount of compensation for representation under  
117 this section. Appointment of counsel for executive clemency  
118 under this section shall be at the board's sole discretion. The  
119 provision of counsel for relief by executive clemency under this  
120 section does not create a statutory right to counsel in such  
121 proceedings.

122           Section 6. This act shall take effect July 1, 2014.

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124 ===== T I T L E   A M E N D M E N T =====

125 And the title is amended as follows:

126           Delete everything before the enacting clause  
127 and insert:



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128                                   A bill to be entitled  
129           An act relating to executive clemency; amending ss.  
130           27.51 and 27.511, F.S.; removing authority of the  
131           trial court to appoint counsel for executive clemency  
132           proceedings; amending s. 27.5303, F.S.; removing  
133           authority of the court rendering judgment imposing the  
134           death penalty to appoint counsel for executive  
135           clemency proceedings; amending s. 27.5304, F.S.;  
136           removing authority for payment to the appointed  
137           attorney for representing a defendant in an  
138           application for executive clemency after the  
139           imposition of a death sentence; creating s. 940.031,  
140           F.S.; authorizing the Board of Executive Clemency to  
141           appoint private counsel to represent a person  
142           sentenced to death in an executive clemency  
143           proceeding; authorizing compensation of up to a  
144           specified amount to the appointed attorney from the  
145           General Revenue Funds appropriated to the Parole  
146           Commission; providing legislative intent; providing an  
147           effective date.