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HB 5011, Engrossed 1

2011 Legislature

1 A bill to be entitled
2 An act relating to the Commission on Capital Cases;
3 repealing s. 27.709, F.S., relating to the creation of the
4 Commission on Capital Cases; amending ss. 27.7002, 27.702,
5 27.710, and 27.711, F.S.; providing for assumption of
6 certain duties of the Commission on Capital Cases by the
7 Justice Administrative Commission; conforming provisions
8 to changes made by the act; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Section 27.709, Florida Statutes, is repealed.

13 Section 2. Subsections (6) and (7) of section 27.7002,
14 Florida Statutes, are amended to read:

15 27.7002 Limitation on collateral representation; lawyer
16 disqualification; use of state funds for excess fees not
17 authorized.—

18 (6) The executive director of the Justice Administrative
19 ~~Commission on Capital Cases~~ is authorized to permanently remove
20 from the registry of attorneys provided in ss. 27.710 and 27.711
21 any attorney who seeks compensation for services above the
22 amounts provided in s. 27.711.

23 (7) Any attorney who notifies any court, judge, state
24 attorney, the Attorney General, or the executive director of the
25 Justice Administrative ~~Commission on Capital Cases~~, that he or
26 she cannot provide adequate or proper representation under the
27 terms and conditions set forth in s. 27.711 shall be permanently
28 disqualified from any attorney registry created under this

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chapter unless good cause arises after a change in
circumstances.

Section 3. Subsection (4) of section 27.702, Florida
Statutes, is amended to read:

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

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

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

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

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

(1) The executive director of the Justice Administrative
~~Commission on Capital Cases~~ shall compile and maintain a
statewide registry of attorneys in private practice who have

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57 certified that they meet the minimum requirements of s.
58 27.704(2), who are available for appointment by the court under
59 this section to represent persons convicted and sentenced to
60 death in this state in postconviction collateral proceedings,
61 and who have attended within the last year a continuing legal
62 education program of at least 10 hours' duration devoted
63 specifically to the defense of capital cases, if available.
64 Continuing legal education programs meeting the requirements of
65 this rule offered by The Florida Bar or another recognized
66 provider and approved for continuing legal education credit by
67 The Florida Bar shall satisfy this requirement. The failure to
68 comply with this requirement may be cause for removal from the
69 list until the requirement is fulfilled. To ensure that
70 sufficient attorneys are available for appointment by the court,
71 when the number of attorneys on the registry falls below 50, the
72 executive director shall notify the chief judge of each circuit
73 by letter and request the chief judge to promptly submit the
74 names of at least three private attorneys who regularly practice
75 criminal law in that circuit and who appear to meet the minimum
76 requirements to represent persons in postconviction capital
77 collateral proceedings. The executive director shall send an
78 application to each attorney identified by the chief judge so
79 that the attorney may register for appointment as counsel in
80 postconviction capital collateral proceedings. As necessary, the
81 executive director may also advertise in legal publications and
82 other appropriate media for qualified attorneys interested in
83 registering for appointment as counsel in postconviction capital
84 collateral proceedings. Not later than September 1 of each year,

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85 and as necessary thereafter, the executive director shall
86 provide to the Chief Justice of the Supreme Court, the chief
87 judge and state attorney in each judicial circuit, and the
88 Attorney General a current copy of its registry of attorneys who
89 are available for appointment as counsel in postconviction
90 capital collateral proceedings. The registry must be indexed by
91 judicial circuit and must contain the requisite information
92 submitted by the applicants in accordance with this section.

93 (4) Each private attorney who is appointed by the court to
94 represent a capital defendant must enter into a contract with
95 the Chief Financial Officer. If the appointed attorney fails to
96 execute the contract within 30 days after the date the contract
97 is mailed to the attorney, the executive director ~~of the~~
98 ~~Commission on Capital Cases~~ shall notify the trial court. The
99 Chief Financial Officer shall develop the form of the contract,
100 function as contract manager, and enforce performance of the
101 terms and conditions of the contract. By signing such contract,
102 the attorney certifies that he or she intends to continue the
103 representation under the terms and conditions set forth in the
104 contract until the sentence is reversed, reduced, or carried out
105 or until released by order of the trial court.

106 Section 5. Paragraph (b) of subsection (1) of section
107 27.711, Florida Statutes, is amended to read:

108 27.711 Terms and conditions of appointment of attorneys as
109 counsel in postconviction capital collateral proceedings.—

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

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

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113 Section 6. This act shall take effect July 1, 2011.