

House Bill No. 1847

An act relating to the capital collateral regional counsel; amending s. 27.701, F.S.; extending the term of the capital collateral regional counsel pilot program; providing for legislative determination of converting the pilot program to a permanent program after receipt of Auditor General's review; deleting an expiration date; amending s. 27.709, F.S.; expanding the jurisdiction of the Commission on Capital Cases; amending s. 27.711, F.S.; providing for compensation of counsel in the pilot program; providing for limitations on such counsel; amending s. 27.702, F.S.; requiring reports from attorneys participating in the pilot program; providing an effective date.

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

Section 1. Subsection (2) of section 27.701, Florida Statutes, is amended to read:

27.701 Capital collateral regional counsels.—

(2) ~~For the 2003-2004 fiscal year only and~~ Notwithstanding the provisions of subsection (1), the responsibilities of the regional office of capital collateral counsel for the northern region of the state shall be met through a pilot program using only attorneys from the registry of attorneys maintained pursuant to s. 27.710. Each attorney participating in the pilot must be qualified to provide representation in federal court. ~~The Auditor General shall present a status report on the implementation of the pilot program to the President of the Senate and the Speaker of the House of Representatives by February 27, 2004.~~ The Auditor General shall also schedule a performance review of the pilot program to determine the effectiveness and efficiency of using attorneys from the registry compared to the capital collateral regional counsels. The review, at a minimum, shall include comparisons of the timeliness and costs of the pilot and the counsels and shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 30, 2007. The Legislature may determine whether to convert the pilot program to a permanent program after receipt of the Auditor General's review. ~~This subsection expires July 1, 2004.~~

Section 2. Paragraphs (a) and (c) of subsection (2) of section 27.709, Florida Statutes, as amended by section 86 of chapter 2003-399, Laws of Florida, are amended to read:

27.709 Commission on Capital Cases.—

(2)(a) The commission shall review the administration of justice in capital collateral cases, receive relevant public input, review the operation of the capital collateral regional counsel and private counsel appointed pursuant to ss. 27.710 and 27.711, and advise and make recommendations to the Governor, Legislature, and Supreme Court.

(c) In addition, the commission shall receive complaints regarding the practice of any office of regional counsel and private counsel appointed pursuant to ss. 27.710 and 27.711 and shall refer any complaint to The Florida Bar, the State Supreme Court, or the Commission on Ethics, as appropriate.

Section 3. Subsections (3) and (9) of section 27.711, Florida Statutes, as amended by section 88 of chapter 2003-399, Laws of Florida, are amended, and subsection (14) is added to that section, to read:

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

(3) An attorney appointed to represent a capital defendant is entitled to payment of the fees set forth in this section only upon full performance by the attorney of the duties specified in this section and approval of payment by the trial court, and the submission of a payment request by the attorney, subject to the availability of sufficient funding specifically appropriated for this purpose. An attorney may not be compensated under this section for work performed by the attorney before July 1, 2003, while employed by the northern regional office of the capital collateral counsel. The Chief Financial Officer shall notify the executive director and the court if it appears that sufficient funding has not been specifically appropriated for this purpose to pay any fees which may be incurred. The attorney shall maintain appropriate documentation, including a current and detailed hourly accounting of time spent representing the capital defendant. The fee and payment schedule in this section is the exclusive means of compensating a court-appointed attorney who represents a capital defendant. When appropriate, a court-appointed attorney must seek further compensation from the Federal Government, as provided in 18 U.S.C. s. 3006A or other federal law, in habeas corpus litigation in the federal courts.

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

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

Section 4. Paragraph (b) of subsection (4) of section 27.702, Florida Statutes, as amended by section 90 of chapter 2003-399, Laws of Florida, is amended to read:

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

(4)

(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, 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 5. This act shall take effect July 1, 2004; or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2004.

Approved by the Governor May 25, 2004.

Filed in Office Secretary of State May 25, 2004.