

CHAPTER 2011-131

House Bill No. 5011

An act relating to the Commission on Capital Cases; repealing s. 27.709, F.S., relating to the creation of the Commission on Capital Cases; amending ss. 27.7002, 27.702, 27.710, and 27.711, F.S.; providing for assumption of certain duties of the Commission on Capital Cases by the Justice Administrative Commission; conforming provisions to changes made by the act; providing an effective date.

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

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 Section 27.709, Florida Statutes, is repealed.

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

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

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

(7) Any attorney who notifies any court, judge, state attorney, the Attorney General, or the executive director of the Justice Administrative Commission ~~on Capital Cases~~, that he or she cannot provide adequate or proper representation under the terms and conditions set forth in s. 27.711 shall be permanently disqualified from any attorney registry created under this 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 certified that they meet the minimum requirements of s. 27.704(2), who are available for appointment by the court under this section to represent persons convicted and sentenced to death in this state in postconviction collateral proceedings, and who have attended within the last year a continuing legal education program of at least 10 hours' duration devoted specifically to the defense of capital cases, if available. Continuing legal education programs meeting the requirements of this rule offered by The Florida Bar or another recognized provider and approved for continuing legal education credit by The Florida Bar shall satisfy this requirement. The failure to comply with this requirement may be cause for removal from the list until the requirement is fulfilled. To ensure that sufficient attorneys are available for appointment by the court, when the number of attorneys on the registry falls below 50, the executive director shall notify the chief judge of each circuit by letter and request the chief judge to promptly submit the names of at least three private attorneys who regularly practice criminal law in that circuit and who appear to meet the minimum requirements to represent persons in postconviction capital collateral proceedings. The executive director shall send an application to each attorney identified by the chief judge so that the attorney may register for appointment as counsel in postconviction capital collateral proceedings. As necessary, the executive director may also advertise in legal publications and other appropriate media for qualified attorneys interested in registering for appointment as counsel in postconviction capital collateral proceedings. Not later than September 1 of each year, and as necessary thereafter, the executive director shall provide to the Chief Justice of the Supreme Court, the chief judge and state attorney in each judicial circuit, and the Attorney General a current copy of its registry of attorneys who are available for appointment as counsel in postconviction capital collateral proceedings. The registry must be indexed by judicial circuit and must contain the requisite information submitted by the applicants in accordance with this section.

(4) Each private attorney who is appointed by the court to represent a capital defendant must enter into a contract with the Chief Financial Officer. If the appointed attorney fails to execute the contract within 30 days after the date the contract is mailed to the attorney, the executive director of ~~the Commission on Capital Cases~~ shall notify the trial court. The Chief Financial Officer shall develop the form of the contract, function as contract manager, and enforce performance of the terms and conditions of the contract. By signing such contract, the attorney certifies that he or she intends to continue the representation under the terms and conditions set forth in the contract

until the sentence is reversed, reduced, or carried out or until released by order of the trial court.

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

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

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

(b) “Executive director” means the executive director of the Justice Administrative Commission ~~on Capital Cases~~.

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

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.