

By Senator Negron

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1 A bill to be entitled
2 An act relating to postconviction capital case
3 proceedings; providing a short title; amending ss.
4 27.40, 27.51, 27.511, 27.5303, and 27.5304, F.S.;
5 removing the right to have appointed counsel in
6 clemency proceedings; repealing s. 27.701(2), F.S.,
7 relating to the pilot project for capital
8 representation; amending s. 27.702, F.S.; providing
9 that the capital collateral regional counsel and the
10 attorneys appointed pursuant to law shall file only
11 those postconviction or collateral actions authorized
12 by statute; amending s. 27.703, F.S.; providing that
13 if the collateral counsel believes continued
14 representation of a person creates a conflict of
15 interest, the court shall hold a hearing to determine
16 if a conflict actually exists; amending s. 27.708,
17 F.S.; directing capital collateral counsel to comply
18 with statutory requirements rather than rules of
19 court; amending s. 27.7081, F.S., relating to public
20 records; defining terms; describing access to public
21 records; proscribing procedures to obtain relevant
22 records; amending s. 27.7091, F.S.; removing a request
23 to the Supreme Court to adopt by rule the provisions
24 that limit the time for postconviction proceedings in
25 capital cases; amending s. 27.711, F.S.; revising
26 provisions to conform to changes made by the act;
27 amending s. 922.095, F.S.; providing that any
28 postconviction claim not pursued within the statutory
29 time limits is barred; reenacting s. 922.108, F.S.,

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30 relating to sentencing orders in capital cases;
31 amending s. 924.055, F.S.; providing legislative
32 intent; directing courts to expedite postconviction
33 proceedings; amending s. 924.056, F.S.; providing that
34 the section governs all postconviction proceedings in
35 every capital case in which the conviction and
36 sentence of death have been affirmed on direct appeal
37 on or after a specified date; providing for the
38 appointment of postconviction counsel; amending
39 s.924.057, F.S.; providing that the section governs
40 all postconviction proceeding to capital
41 postconviction actions brought before a specified
42 date; making technical changes; amending s. 924.058,
43 F.S.; providing that the section regulates procedures
44 in actions involving successive postconviction motions
45 in all postconviction proceedings in capital cases
46 affirmed on or after a specified date; creating s.
47 924.0581, F.S.; providing that the section governs
48 capital postconviction appeals to the Florida Supreme
49 Court in every capital case in which the conviction
50 and sentence of death have been affirmed on direct
51 appeal on or after a specified date; creating s.
52 924.0585, F.S.; requiring the Florida Supreme Court to
53 annually report to the Speaker of the Florida House of
54 Representatives and the President of the Florida
55 Senate concerning the status of each capital case in
56 which a postconviction action has been filed that has
57 been pending for more than 3 years; amending s.
58 924.059, F.S.; providing procedures to resolve

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59 conflicts of interest in capital postconviction
60 proceedings; creating s. 924.0591, F.S.; providing
61 that a death-sentenced inmate pursuing collateral
62 relief who is found by the court to be mentally
63 incompetent shall not be proceeded against; providing
64 procedures for competency examinations and hearings;
65 creating s. 924.0592, F.S.; providing that the section
66 governs all postconviction proceedings in every
67 capital case in which the conviction and sentence of
68 death have been affirmed on direct appeal on or after
69 a specified date and in which a death warrant has been
70 issued; creating s. 924.0593, F.S.; governing
71 procedures relating to claims of insanity at the time
72 of execution; creating s. 924.0594, F.S.; providing
73 procedures that apply if an inmate seeks both to
74 dismiss a pending postconviction proceeding and to
75 discharge collateral counsel; providing for
76 severability; providing for a contingent effective
77 date.

78
79 WHEREAS, it is in the best interest of the administration
80 of justice that a sentence of death ordered by a court of this
81 state be carried out in a manner that is fair, just, and humane
82 and that conforms to constitutional requirements, and

83 WHEREAS, in order for capital punishment to be fair, just,
84 and humane for both the family of victims and for offenders,
85 there must be a prompt and efficient administration of justice
86 following any sentence of death ordered by the courts of this
87 state, and

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88 WHEREAS, in order to ensure the fair, just, and humane
89 administration of capital punishment, it is necessary for the
90 Legislature to comprehensively address the processes by which an
91 offender sentenced to death may pursue postconviction and
92 collateral review of the judgment and the sentence of death, and

93 WHEREAS, the Death Penalty Reform Act of 2000, chapter
94 2000-3, Laws of Florida, was designed to accomplish these
95 objectives and was passed by the Legislature and approved by the
96 Governor of Florida in January of 2000, and

97 WHEREAS, the Death Penalty Reform Act of 2000, chapter
98 2000-3, Laws of Florida, was declared unconstitutional by the
99 Florida Supreme Court three months after becoming a law in *Allen*
100 *v. Butterworth*, 756 So.2d 52 (Fla. 2000), as being an
101 encroachment on the court's "exclusive power to 'adopt rules for
102 the practice and procedure in all courts,'" and

103 WHEREAS, the Constitution of the State of Florida has been
104 amended to require postconviction and collateral review of
105 capital cases resulting in a sentence of death to be governed
106 by, and to the extent provided by, general law, and

107 WHEREAS, provisions of the Death Penalty Reform Act of 2000
108 which were held unconstitutional may now be reenacted, while
109 other provisions can be modified, and new provisions added to
110 ensure a prompt and efficient administration of justice
111 following any sentence of death, NOW, THEREFORE,

112

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

114

115 Section 1. This act may be cited as the "Timely Justice
116 Act."

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117 Section 2. Effective July 1, 2013, subsection (1) of
118 section 27.40, Florida Statutes, is amended to read:

119 27.40 Court-appointed counsel; circuit registries; minimum
120 requirements; appointment by court.-

121 (1) Counsel shall be appointed to represent any individual
122 in a criminal or civil proceeding entitled to court-appointed
123 counsel under the Federal or State Constitution or as authorized
124 by general law. Such proceedings do not include proceedings for
125 relief by executive clemency in which the application for
126 executive clemency was filed on or after July 1, 2013. The court
127 shall appoint a public defender to represent indigent persons as
128 authorized in s. 27.51. The office of criminal conflict and
129 civil regional counsel shall be appointed to represent persons
130 in those cases in which provision is made for court-appointed
131 counsel but the public defender is unable to provide
132 representation due to a conflict of interest or is not
133 authorized to provide representation.

134 Section 3. Effective July 1, 2013, paragraph (a) of
135 subsection (5) of section 27.51, Florida Statutes, is amended to
136 read:

137 27.51 Duties of public defender.-

138 (5) (a) When direct appellate proceedings prosecuted by a
139 public defender on behalf of an accused and challenging a
140 judgment of conviction and sentence of death terminate in an
141 affirmance of such conviction and sentence, whether by the
142 Florida Supreme Court or by the United States Supreme Court or
143 by expiration of any deadline for filing such appeal in a state
144 or federal court, the public defender shall notify the accused
145 of his or her rights pursuant to Rule 3.850, Florida Rules of

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146 Criminal Procedure, including any time limits pertinent thereto,
147 and shall advise such person that representation in any
148 collateral proceedings is the responsibility of the capital
149 collateral regional counsel. The public defender shall then
150 forward all original files on the matter to the capital
151 collateral regional counsel, retaining such copies for his or
152 her files as may be desired. However, for clemency applications
153 pending or filed before July 1, 2013, the trial court shall
154 retain the power to appoint the public defender or other
155 attorney not employed by the capital collateral regional counsel
156 to represent such person in proceedings for relief by executive
157 clemency pursuant to ss. 27.40 and 27.5303.

158 Section 4. Paragraph (a) of subsection (5) of section
159 27.51, Florida Statutes, as amended by this act, is amended to
160 read:

161 27.51 Duties of public defender.—

162 (5) (a) When direct appellate proceedings prosecuted by a
163 public defender on behalf of an accused and challenging a
164 judgment of conviction and sentence of death terminate in an
165 affirmance of such conviction and sentence, whether by the
166 Florida Supreme Court or by the United States Supreme Court or
167 by expiration of any deadline for filing such appeal in a state
168 or federal court, the public defender shall notify the accused
169 of his or her rights pursuant to s. 924.056 ~~Rule 3.850, Florida~~
170 ~~Rules of Criminal Procedure,~~ including any time limits pertinent
171 thereto, and shall advise such person that representation in any
172 collateral proceedings is the responsibility of the capital
173 collateral regional counsel. The public defender shall then
174 forward all original files on the matter to the capital

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175 collateral regional counsel, retaining such copies for his or
176 her files as may be desired. However, for clemency applications
177 pending or filed before July 1, 2013, the trial court shall
178 retain the power to appoint the public defender or other
179 attorney not employed by the capital collateral regional counsel
180 to represent such person in proceedings for relief by executive
181 clemency pursuant to ss. 27.40 and 27.5303.

182 Section 5. Effective July 1, 2013, subsection (9) of
183 section 27.511, Florida Statutes, is amended to read:

184 27.511 Offices of criminal conflict and civil regional
185 counsel; legislative intent; qualifications; appointment;
186 duties.—

187 (9) When direct appellate proceedings prosecuted by the
188 office of criminal conflict and civil regional counsel on behalf
189 of an accused and challenging a judgment of conviction and
190 sentence of death terminate in an affirmance of such conviction
191 and sentence, whether by the Supreme Court or by the United
192 States Supreme Court or by expiration of any deadline for filing
193 such appeal in a state or federal court, the office of criminal
194 conflict and civil regional counsel shall notify the accused of
195 his or her rights pursuant to Rule 3.850, Florida Rules of
196 Criminal Procedure, including any time limits pertinent thereto,
197 and shall advise such person that representation in any
198 collateral proceedings is the responsibility of the capital
199 collateral regional counsel. The office of criminal conflict and
200 civil regional counsel shall forward all original files on the
201 matter to the capital collateral regional counsel, retaining
202 such copies for his or her files as may be desired or required
203 by law. However, for clemency applications pending or filed

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204 before July 1, 2013, the trial court shall retain the power to
205 appoint the office of criminal conflict and civil regional
206 counsel or other attorney not employed by the capital collateral
207 regional counsel to represent such person in proceedings for
208 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

209 Section 6. Subsection (9) of section 27.511, Florida
210 Statutes, as amended by this act, is amended to read:

211 27.511 Offices of criminal conflict and civil regional
212 counsel; legislative intent; qualifications; appointment;
213 duties.—

214 (9) When direct appellate proceedings prosecuted by the
215 office of criminal conflict and civil regional counsel on behalf
216 of an accused and challenging a judgment of conviction and
217 sentence of death terminate in an affirmance of such conviction
218 and sentence, whether by the Supreme Court or by the United
219 States Supreme Court or by expiration of any deadline for filing
220 such appeal in a state or federal court, the office of criminal
221 conflict and civil regional counsel shall notify the accused of
222 his or her rights pursuant to s. 924.056 ~~Rule 3.850, Florida~~
223 ~~Rules of Criminal Procedure~~, including any time limits pertinent
224 thereto, and shall advise such person that representation in any
225 collateral proceedings is the responsibility of the capital
226 collateral regional counsel. The office of criminal conflict and
227 civil regional counsel shall forward all original files on the
228 matter to the capital collateral regional counsel, retaining
229 such copies for his or her files as may be desired or required
230 by law. However, for clemency applications pending or filed
231 before July 1, 2013, the trial court shall retain the power to
232 appoint the office of criminal conflict and civil regional

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233 counsel or other attorney not employed by the capital collateral
234 regional counsel to represent such person in proceedings for
235 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

236 Section 7. Effective July 1, 2013, subsection (4) of
237 section 27.5303, Florida Statutes, is amended to read:

238 27.5303 Public defenders; criminal conflict and civil
239 regional counsel; conflict of interest.—

240 (4) (a) If a defendant is convicted and the death sentence
241 is imposed, the appointed attorney shall continue representation
242 through appeal to the Supreme Court. The attorney shall be
243 compensated as provided in s. 27.5304. If the attorney first
244 appointed is unable to handle the appeal, the court shall
245 appoint another attorney and that attorney shall be compensated
246 as provided in s. 27.5304.

247 (b) The public defender or an attorney appointed pursuant
248 to this section may be appointed by the court rendering the
249 judgment imposing the death penalty to represent an indigent
250 defendant who, before July 1, 2013, has an application for
251 executive clemency pending or has applied for executive clemency
252 as relief from the execution of the judgment imposing the death
253 penalty.

254 (c) When the appointed attorney in a capital case has
255 completed the duties imposed by this section, the attorney shall
256 file a written report in the trial court stating the duties
257 performed by the attorney and apply for discharge.

258 Section 8. Effective July 1, 2013, subsection (5) of
259 section 27.5304, Florida Statutes, is amended to read:

260 27.5304 Private court-appointed counsel; compensation;
261 notice.—

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

264 (a)1. For misdemeanors and juveniles represented at the
265 trial level: \$1,000.

266 2. For noncapital, nonlife felonies represented at the
267 trial level: \$2,500.

268 3. For life felonies represented at the trial level:
269 \$3,000.

270 4. For capital cases represented at the trial level:
271 \$15,000. For purposes of this subparagraph, a "capital case" is
272 any offense for which the potential sentence is death and the
273 state has not waived seeking the death penalty.

274 5. For representation on appeal: \$2,000.

275 (b) If a death sentence is imposed and affirmed on appeal
276 to the Supreme Court, the appointed attorney shall be allowed
277 compensation, not to exceed \$1,000, for attorney fees and costs
278 incurred in representing the defendant as to an application for
279 executive clemency submitted before July 1, 2013, with
280 compensation to be paid out of general revenue from funds
281 budgeted to the Department of Corrections.

282 Section 9. Effective July 1, 2013, subsection (2) of
283 section 27.701, Florida Statutes, is repealed.

284 Section 10. Subsection (1) of section 27.702, Florida
285 Statutes, is amended to read:

286 27.702 Duties of the capital collateral regional counsel;
287 reports.—

288 (1) The capital collateral regional counsel shall represent
289 each person convicted and sentenced to death in this state for
290 the sole purpose of instituting and prosecuting collateral

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291 actions challenging the legality of the judgment and sentence
292 imposed against such person in the state courts, federal courts
293 in this state, the United States Court of Appeals for the
294 Eleventh Circuit, and the United States Supreme Court. ~~The~~
295 ~~capital collateral regional counsel and the attorneys appointed~~
296 ~~pursuant to s. 27.710 shall file only those postconviction or~~
297 ~~collateral actions authorized by statute.~~ The three capital
298 collateral regional counsel's offices shall function
299 independently and be separate budget entities, and the regional
300 counsel shall be the office heads for all purposes. The Justice
301 Administrative Commission shall provide administrative support
302 and service to the three offices to the extent requested by the
303 regional counsel. The three regional offices shall not be
304 subject to control, supervision, or direction by the Justice
305 Administrative Commission in any manner, including, but not
306 limited to, personnel, purchasing, transactions involving real
307 or personal property, and budgetary matters.

308 Section 11. Effective July 1, 2013, paragraph (b) of
309 subsection (4) of section 27.702, Florida Statutes, is amended
310 to read:

311 27.702 Duties of the capital collateral regional counsel;
312 reports.-

313 (4)

314 (b) Each capital collateral regional counsel ~~and each~~
315 ~~attorney participating in the pilot program in the northern~~
316 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report
317 to the President of the Senate and the Speaker of the House of
318 Representatives which details the number of hours worked by
319 investigators and legal counsel per case and the amounts per

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320 case expended during the preceding quarter in investigating and
321 litigating capital collateral cases.

322 Section 12. Section 27.703, Florida Statutes, is reenacted
323 to read:

324 27.703 Conflict of interest and substitute counsel.—

325 (1) The capital collateral regional counsel shall not
326 accept an appointment or take any other action that will create
327 a conflict of interest. If, at any time during the
328 representation of a person, the capital collateral regional
329 counsel alleges ~~determines~~ that the continued representation of
330 that person creates a conflict of interest, the sentencing court
331 shall hold a hearing in accordance with s. 924.059 to determine
332 if an actual conflict exists. If the court determines that an
333 actual conflict exists and that such conflict will adversely
334 affect the capital collateral regional counsel's performance,
335 the court shall, ~~upon application by the regional counsel,~~
336 designate another regional counsel. If the replacement regional
337 counsel alleges that a conflict of interest exists, the
338 sentencing court shall hold a hearing in accordance with s.
339 924.059 to determine if an actual conflict exists. If the court
340 determines that an actual conflict exists and that such conflict
341 will adversely affect the replacement regional counsel's
342 performance, the court shall ~~and, only if a conflict exists with~~
343 ~~the other two counsel,~~ appoint one or more members of The
344 Florida Bar to represent the person ~~one or more of such persons.~~

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

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349 (3) Prior to employment, counsel appointed pursuant to this
 350 section must have participated in at least five felony jury
 351 trials, five felony appeals, or five capital postconviction
 352 evidentiary hearings, or any combination of at least five of
 353 such proceedings.

354 Section 13. Section 27.708, Florida Statutes, is amended to
 355 read:

356 27.708 Access to inmates ~~prisoners; compliance with the~~
 357 ~~Florida Rules of Criminal Procedure;~~ records requests.—

358 (1) Each capital collateral regional counsel and his or her
 359 assistants may inquire of all persons sentenced to death who are
 360 incarcerated and tender them advice and counsel at any
 361 reasonable time, but this section does not apply with respect to
 362 persons who are represented by other counsel.

363 (2) The capital collateral regional counsel and contracted
 364 private counsel must timely comply with all statutory
 365 requirements ~~provisions of the Florida Rules of Criminal~~
 366 ~~Procedure~~ governing collateral review of capital cases.

367 (3) Except as provided in s. 27.7081, the capital
 368 collateral regional counsel or contracted private counsel shall
 369 not make any public records request on behalf of his or her
 370 client.

371 Section 14. Section 27.7081, Florida Statutes, is amended
 372 to read:

373 (Substantial rewording of section.

374 See s. 27.7081, F.S., for present text.)

375 27.7081 Capital postconviction public records production.—

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

377 (a) "Agency" has the same meaning as provided in s.

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378 119.011.

379 (b) "Collateral counsel" means a capital collateral
380 regional counsel from one of the three regions in Florida, a
381 private attorney who has been appointed to represent a capital
382 defendant for postconviction litigation, or a private attorney
383 who has been hired by the capital defendant or who has agreed to
384 work pro bono for a capital defendant for postconviction
385 litigation.

386 (c) "Public records" has the same meaning as provided in s.
387 119.011.

388 (d) "Trial court" means:

389 1. The judge who entered the judgment and imposed the
390 sentence of death; or

391 2. If a motion for postconviction relief in a capital case
392 has been filed and a different judge has already been assigned
393 to that motion, the judge who is assigned to rule on that
394 motion.

395 (2) APPLICABILITY AND SCOPE.—This section only applies to
396 the production of public records for capital postconviction
397 defendants and does not change or alter the time periods
398 specified in s. 924.056 or s. 924.058. Furthermore, this section
399 does not affect, expand, or limit the production of public
400 records for any purposes other than use in a proceeding held
401 pursuant to s. 924.056 or s. 924.058. This section shall not be
402 a basis for renewing public records requests that have been
403 initiated previously or for relitigating issues pertaining to
404 production of public records upon which a court has ruled prior
405 to July 1, 2015. Public records requests made in postconviction
406 proceedings in capital cases in which the conviction and

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407 sentence of death have been affirmed on direct appeal before
408 July 1, 2015, shall be governed by the rules and laws in effect
409 immediately prior to the effective date of this act.

410 (3) RECORDS REPOSITORY.—The Secretary of State shall
411 establish and maintain a records repository for the purpose of
412 archiving capital postconviction public records as provided for
413 in this section.

414 (4) FILING AND SERVICE.—

415 (a) The original of all notices, requests, or objections
416 filed under this section must be filed with the clerk of the
417 trial court. Copies must be served on the trial court, the
418 Attorney General, the state attorney, collateral counsel, and
419 any affected person or agency, unless otherwise required by this
420 section.

421 (b) Service shall be made pursuant to Florida Rule of
422 Criminal Procedure 3.030.

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

426 (d) Persons and agencies receiving postconviction public
427 records notifications or requests pursuant to this section are
428 not required to furnish records filed in a trial court prior to
429 the receipt of the notice.

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

431 (a) Within 15 days after receiving written notification of
432 the Supreme Court of Florida's mandate affirming the sentence of
433 death, the Attorney General shall file with the trial court a
434 written notice of the mandate and serve a copy of it upon the
435 state attorney who prosecuted the case, the Department of

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436 Corrections, and the defendant's trial counsel. The notice to
437 the state attorney shall direct the state attorney to submit
438 public records to the records repository within 90 days after
439 receipt of written notification and to notify each law
440 enforcement agency involved in the investigation of the capital
441 offense to submit public records to the records repository
442 within 90 days after receipt of written notification. The notice
443 to the Department of Corrections shall direct the department to
444 submit public records to the records repository within 90 days
445 after receipt of written notification.

446 (b) Within 90 days after receiving written notification of
447 issuance of the Supreme Court of Florida's mandate affirming a
448 death sentence, the state attorney shall provide written
449 notification to the Attorney General of the name and address of
450 any additional person or agency that has public records
451 pertinent to the case.

452 (c) Within 90 days after receiving written notification of
453 issuance of the Supreme Court of Florida's mandate affirming a
454 death sentence, the defendant's trial counsel shall provide
455 written notification to the Attorney General of the name and
456 address of any person or agency with information pertinent to
457 the case which has not previously been provided to collateral
458 counsel.

459 (d) Within 15 days after receiving written notification of
460 any additional person or agency pursuant to paragraphs (b) or
461 (c), the Attorney General shall notify all persons or agencies
462 identified pursuant to paragraphs (b) or (c) that these persons
463 or agencies are required by law to copy, index, and deliver to
464 the records repository all public records pertaining to the case

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465 that are in their possession. The person or agency shall bear
466 the costs related to copying, indexing, and delivering the
467 records.

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

469 (a) Within 15 days after receipt of a written notice of the
470 mandate from the Attorney General, the state attorney shall
471 provide written notification to each law enforcement agency
472 involved in the specific case to submit public records to the
473 records repository within 90 days after receipt of written
474 notification. A copy of the notice shall be served upon the
475 defendant's trial counsel.

476 (b) Within 90 days after receipt of a written notice of the
477 mandate from the Attorney General, the state attorney shall
478 copy, index, and deliver to the records repository all public
479 records that were produced in the state attorney's investigation
480 or prosecution of the case. The state attorney shall bear the
481 costs. The state attorney shall also provide written
482 notification to the Attorney General of compliance with this
483 section, including certifying that, to the best of the state
484 attorney's knowledge or belief, all public records in the state
485 attorney's possession have been copied, indexed, and delivered
486 to the records repository as required by this section.

487 (c) Within 90 days after receipt of written notification of
488 the mandate from the Attorney General, the Department of
489 Corrections shall copy, index, and deliver to the records
490 repository all public records determined by the department to be
491 relevant to the subject matter of a proceeding under s. 924.056
492 or s. 924.058, unless such copying, indexing, and delivering
493 would be unduly burdensome. The department shall bear the costs.

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494 The secretary of the department shall provide written
495 notification to the Attorney General of compliance with this
496 paragraph certifying that, to the best of the secretary of the
497 department's knowledge or belief, all such public records in the
498 possession of the secretary of the department have been copied,
499 indexed, and delivered to the records repository.

500 (d) Within 90 days after receipt of written notification of
501 the mandate from the state attorney, a law enforcement agency
502 shall copy, index, and deliver to the records repository all
503 public records which were produced in the investigation or
504 prosecution of the case. Each agency shall bear the costs. The
505 chief law enforcement officer of each law enforcement agency
506 shall provide written notification to the Attorney General of
507 compliance with this paragraph including certifying that, to the
508 best of the chief law enforcement officer's knowledge or belief,
509 all such public records in possession of the agency or in
510 possession of any employee of the agency, have been copied,
511 indexed, and delivered to the records repository.

512 (e) Within 90 days after receipt of written notification of
513 the mandate from the Attorney General, each additional person or
514 agency identified pursuant to paragraphs (5)(b) or (5)(c) shall
515 copy, index, and deliver to the records repository all public
516 records which were produced during the prosecution of the case.
517 The person or agency shall bear the costs. The person or agency
518 shall provide written notification to the Attorney General of
519 compliance with this subdivision and shall certify, to the best
520 of the person or agency's knowledge and belief, all such public
521 records in the possession of the person or agency have been
522 copied, indexed, and delivered to the records repository.

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(7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS.-

(a) Any public records delivered to the records repository pursuant to this section that are confidential or exempt from the requirements of s. 119.07(1) or Art. I, Section 24(a), Florida Constitution, must be separately contained, without being redacted, and sealed. The outside of the container must clearly identify that the public record is confidential or exempt and that the seal may not be broken without an order of the trial court. The outside of the container must identify the nature of the public records and the legal basis for the exemption.

(b) Upon the entry of an appropriate court order, sealed containers subject to an inspection by the trial court shall be shipped to the clerk of court. The containers may be opened only for inspection by the trial court in camera. The moving party shall bear all costs associated with the transportation and inspection of such records by the trial court. The trial court shall perform the unsealing and inspection without ex parte communications and in accord with procedures for reviewing sealed documents.

(8) DEMAND FOR ADDITIONAL PUBLIC RECORDS.-

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

(b) Within 90 days of receipt of the written demand, each person or agency notified under this subsection shall deliver to the records repository any additional public records in the

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552 possession of the person or agency that pertain to the case and
553 shall certify to the best of the person or agency's knowledge
554 and belief that all additional public records have been
555 delivered to the records repository or, if no additional public
556 records are found, shall recertify that the public records
557 previously delivered are complete.

558 (c) Within 60 days of receipt of the written demand, any
559 person or agency may file with the trial court an objection to
560 the written demand described in paragraph (a). The trial court
561 shall hold a hearing and issue a ruling within 30 days after the
562 filing of any objection, ordering a person or agency to produce
563 additional public records if the court determines each of the
564 following exists:

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

567 2. Collateral counsel's written demand identifies, with
568 specificity, those additional public records that are not at the
569 records repository.

570 3. The additional public records sought are relevant to the
571 subject matter of a postconviction proceeding under s. 924.056
572 or s. 924.058, or appear reasonably calculated to lead to the
573 discovery of admissible evidence.

574 4. The additional public records request is not overly
575 broad or unduly burdensome.

576 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL
577 RECORDS.—

578 (a) In order to obtain public records in addition to those
579 provided under subsections (6), (7), and (8), collateral counsel
580 shall file an affidavit in the trial court which:

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- 581 1. Attests that collateral counsel has made a timely and
582 diligent search of the records repository; and
- 583 2. Identifies with specificity those public records not at
584 the records repository; and
- 585 3. Establishes that the additional public records are
586 either relevant to the subject matter of the postconviction
587 proceeding or are reasonably calculated to lead to the discovery
588 of admissible evidence; and
- 589 4. Shall be served in accord with subsection (4).
- 590 (b) Within 30 days after the affidavit of collateral
591 counsel is filed, the trial court shall order a person or agency
592 to produce additional public records only upon finding each of
593 the following:
- 594 1. Collateral counsel has made a timely and diligent search
595 of the records repository;
- 596 2. Collateral counsel's affidavit identifies with
597 specificity those additional public records that are not at the
598 records repository;
- 599 3. The additional public records sought are either relevant
600 to the subject matter of a capital postconviction proceeding or
601 appear reasonably calculated to lead to the discovery of
602 admissible evidence; and
- 603 4. The additional records request is not overly broad or
604 unduly burdensome.
- 605 (10) Collateral counsel shall provide the personnel,
606 supplies, and any necessary equipment to copy records held at
607 the records repository.
- 608 (11) AUTHORITY OF THE COURT.—In proceedings under this
609 section the trial court may:

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- 610 (a) Compel or deny disclosure of records;
611 (b) Conduct an in-camera inspection;
612 (c) Extend the times in this section upon a showing of good
613 cause;
614 (d) Impose sanctions upon any party, person, or agency
615 affected by this section including initiating contempt
616 proceedings, taxing expenses, extending time, ordering facts to
617 be established, and granting other relief; and
618 (e) Resolve any dispute arising under this section unless
619 jurisdiction is in an appellate court.
- 620 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION
621 ISSUES.—
- 622 (a) Unless otherwise limited, the scope of production under
623 any part of this section shall be that the public records sought
624 are not privileged or immune from production and are either
625 relevant to the subject matter of a postconviction proceeding
626 under s. 924.056 or s. 924.058 or are reasonably calculated to
627 lead to the discovery of admissible evidence.
- 628 (b) Any objections or motions to compel production of
629 public records pursuant to this section shall be filed within 30
630 days after the end of the production time period provided by
631 this section. Counsel for the party objecting or moving to
632 compel shall file a copy of the objection or motion directly
633 with the trial court. The trial court shall hold a hearing on
634 the objection or motion on an expedited basis.
- 635 (c) The trial court may order mediation for any controversy
636 as to public records production pursuant to this section in
637 accord with Florida Rules of Civil Procedure 1.700, 1.710,
638 1.720, 1.730, or the trial court may refer any such controversy

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639 to a magistrate in accord with Florida Rule of Civil Procedure
640 1.490.

641 (13) DESTRUCTION OF RECORDS REPOSITORY RECORDS.—Sixty days
642 after a capital sentence is carried out, after a defendant is
643 released from incarceration following the granting of a pardon
644 or reversal of the sentence, or after a defendant has been
645 resentenced to a term of years, the Attorney General shall
646 provide written notification of this occurrence to the secretary
647 of State. After the expiration of the 60 days, the Secretary of
648 State may then destroy the copies of the records held by the
649 records repository that pertain to that case, unless an
650 objection to the destruction is filed in the trial court and
651 served upon the Secretary of State. If no objection has been
652 served within the 60-day period, the records may then be
653 destroyed. If an objection is served, the records shall not be
654 destroyed until a final disposition of the objection.

655 Section 15. Effective July 1, 2013, section 27.7091,
656 Florida Statutes, is amended to read:

657 27.7091 Legislative recommendations to Supreme Court;
658 postconviction proceedings; pro bono service credit.—In the
659 interest of promoting justice and integrity with respect to
660 capital collateral representation, the Legislature recommends
661 that the Supreme Court:

662 ~~(1) Adopt by rule the provisions of s. 924.055, which limit~~
663 ~~the time for postconviction proceedings in capital cases.~~

664 ~~(2)~~ award pro bono service credit for time spent by an
665 attorney in providing legal representation to an individual
666 sentenced to death in this state, regardless of whether the
667 attorney receives compensation for such representation.

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668 Section 16. Effective July 1, 2013, subsection (3) of
669 section 27.711, Florida Statutes, is amended to read:

670 27.711 Terms and conditions of appointment of attorneys as
671 counsel in postconviction capital collateral proceedings.-

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

694 Section 17. Paragraph (b) of subsection (4) of section
695 27.711, Florida Statutes, is amended to read:

696 27.711 Terms and conditions of appointment of attorneys as

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697 counsel in postconviction capital collateral proceedings.-

698 (4) Upon approval by the trial court, an attorney appointed
699 to represent a capital defendant under s. 27.710 is entitled to
700 payment of the following fees by the Chief Financial Officer:

701 (b) The attorney is entitled to \$100 per hour, up to a
702 maximum of \$20,000, after timely filing in the trial court the
703 capital defendant's complete original motion for postconviction
704 relief ~~under the Florida Rules of Criminal Procedure~~. The motion
705 must raise all issues to be addressed by the trial court.

706 However, an attorney is entitled to fees under this paragraph if
707 the court schedules a hearing on a matter that makes the filing
708 of the original motion for postconviction relief unnecessary or
709 if the court otherwise disposes of the case.

710
711 The hours billed by a contracting attorney under this subsection
712 may include time devoted to representation of the defendant by
713 another attorney who is qualified under s. 27.710 and who has
714 been designated by the contracting attorney to assist him or
715 her.

716 Section 18. Section 922.095, Florida Statutes, is amended
717 to read:

718 922.095 Grounds for death warrant; limitations of actions.-
719 A person who is convicted and sentenced to death must pursue all
720 possible collateral remedies within the time limits provided by
721 statute. Failure to seek relief within the statutory time limits
722 constitutes grounds for issuance of a death warrant under s.
723 922.052 or s. 922.14. Any postconviction claim not pursued
724 within the statutory time limits is barred. No postconviction
725 claim filed after the time required by law shall be grounds for

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726 a judicial stay of any warrant.

727 Section 19. Section 922.108, Florida Statutes, is reenacted
728 to read:

729 922.108 Sentencing orders in capital cases.—The sentence of
730 death must not specify any particular method of execution. The
731 wording or form of the sentencing order shall not be grounds for
732 reversal of any sentence.

733 Section 20. Section 924.055, Florida Statutes, is amended
734 to read:

735 924.055 Postconviction review in capital cases; legislative
736 findings and intent.—

737 (1) It is the intent of the Legislature to reduce delays in
738 capital cases and to ensure that all ~~appeals and~~ postconviction
739 actions in capital cases are resolved as quickly as possible
740 ~~within 5 years~~ after the date a sentence of death is imposed in
741 the circuit court. ~~All capital postconviction actions must be~~
742 ~~filed as early as possible after the imposition of a sentence of~~
743 ~~death which may be during a direct appeal of the conviction and~~
744 ~~sentence.~~ A person sentenced to death or that person's capital
745 postconviction counsel must file any postconviction ~~legal~~ action
746 in compliance with the timeframes ~~statutes of limitation~~
747 established in s. 924.056, s. 924.058, and elsewhere in this
748 chapter. Except as expressly allowed by s. 924.058 ~~s.~~
749 ~~924.056(5)~~, a person sentenced to death or that person's capital
750 postconviction counsel may not file more than one postconviction
751 action in a sentencing court and one appeal therefrom to the
752 Florida Supreme Court, unless authorized by law.

753 (2) It is the further intent of the Legislature that no
754 state resources be expended in violation of this act. In the

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755 event that any state employee or party contracting with the
756 state violates the provisions of this act, the Attorney General
757 shall deliver to the Speaker of the House of Representatives and
758 the President of the Senate a copy of any court pleading or
759 order that describes or adjudicates a violation.

760 Section 21. Section 924.056, Florida Statutes, is amended
761 to read:

762 (Substantial rewording of section.

763 See s. 924.056, F.S., for present text.)

764 924.056 Capital postconviction proceedings.—This section
765 governs all postconviction proceedings in every capital case in
766 which the conviction and sentence of death have been affirmed on
767 direct appeal on or after July 1, 2015.

768 (1) APPOINTMENT OF POSTCONVICTION COUNSEL.—

769 (a) Upon the issuance of the mandate affirming a judgment
770 and sentence of death on direct appeal, the Supreme Court of
771 Florida shall at the same time issue an order appointing the
772 appropriate office of the Capital Collateral Regional Counsel.

773 (b) Within 30 days of being appointed, the regional counsel
774 shall file a notice of appearance in the trial court or a motion
775 to withdraw based on an actual conflict of interest or some
776 other legal ground. Motions to withdraw filed more than 30 days
777 after being appointed shall not be entertained unless based on
778 an actual conflict of interest.

779 (c) The court shall conduct a hearing in accordance with s.
780 924.059 if the regional counsel's motion to withdraw is based on
781 an actual conflict. If the regional counsel files a motion to
782 withdraw based on any other legal ground, the chief judge or
783 assigned judge shall rule on the motion within 15 days of the

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784 filling of the motion. If the court determines that new
785 postconviction counsel should be appointed, the court shall
786 appoint another regional counsel and, only if a conflict exists
787 with the replacement regional counsel, appoint new
788 postconviction counsel from the statewide registry of attorneys
789 compiled and maintained by the Justice Administrative Commission
790 pursuant to s. 27.710.

791 (d) If the defendant requests without good cause that any
792 attorney appointed under this subsection be removed or replaced,
793 the court shall notify the defendant that no further state
794 resources may be expended for postconviction representation for
795 that defendant, unless the defendant withdraws the request to
796 remove or replace postconviction counsel. If the defendant does
797 not withdraw his or her request, then any appointed attorney
798 must be removed from the case and no further state resources may
799 be expended for the defendant's postconviction representation.

800 (2) PRELIMINARY PROCEDURES.-

801 (a) Within 30 days of the issuance of mandate affirming a
802 judgment and sentence of death on direct appeal, the chief judge
803 shall assign the case to a judge qualified under the Rules of
804 Judicial Administration to conduct capital proceedings.

805 (b) The assigned judge shall conduct a status conference no
806 later than 90 days after the judicial assignment, and shall hold
807 status conferences at least every 90 days thereafter until the
808 evidentiary hearing has been completed or the postconviction
809 motion has been ruled on without a hearing. The attorneys, with
810 leave of the trial court, may, with leave of the court, appear
811 electronically at the status conferences. Requests to appear
812 electronically shall be liberally granted. Pending motions,

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813 disputes involving public records, or any other matters ordered
814 by the court shall be heard at the status conferences. The
815 inmate's presence is not required at status conferences held
816 pursuant to this paragraph.

817 (c) Within 45 days of appointment of postconviction
818 counsel, the defendant's trial counsel shall provide to
819 postconviction counsel all information pertaining to the
820 defendant's capital case which was obtained during the
821 representation of the defendant. Postconviction counsel shall
822 maintain the confidentiality of all confidential information
823 received.

824 (3) TIME LIMITATIONS ON FILING A POSTCONVICTION MOTION.—

825 (a) Any postconviction motion must be filed by the inmate
826 within one year after the judgment and sentence become final.
827 For the purposes of this subsection, a judgment is final:

828 1. Upon the expiration of the time permitted to file in the
829 United States Supreme Court a petition for writ of certiorari
830 seeking review of the Supreme Court of Florida decision
831 affirming a judgment and sentence of death; or

832 2. Upon the disposition of the petition for writ of
833 certiorari by the United States Supreme Court, if filed.

834 (b) No postconviction motion shall be filed or considered
835 pursuant to this subsection if filed beyond the time limitation
836 provided in paragraph (a) unless it alleges:

837 1. The facts on which the motion is predicated were unknown
838 to the movant or the movant's attorney and could not have been
839 ascertained by the exercise of due diligence;

840 2. The fundamental constitutional right asserted was not
841 established within the period provided for in paragraph (a) and

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842 has been held to apply retroactively; or

843 3. Postconviction counsel, through neglect, failed to file
844 the motion.

845 (c) All petitions for extraordinary relief in which the
846 Supreme Court of Florida has original jurisdiction, including
847 petitions for writs of habeas corpus, shall be filed
848 simultaneously with the initial brief filed on behalf of the
849 death-sentenced inmate in the appeal of the circuit court's
850 order on the initial motion for postconviction relief filed
851 under this subsection.

852 (d) The time limitation provided in paragraph (a) is
853 established with the understanding that each inmate sentenced to
854 death will have counsel assigned and available to begin
855 addressing the inmate's postconviction issues within the time
856 specified in this subsection. Should the Governor sign a death
857 warrant before the expiration of the time limitation provided in
858 paragraph (a), the Supreme Court of Florida, on a defendant's
859 request, will grant a stay of execution to allow any
860 postconviction relief motions to proceed in a timely manner.

861 (4) CONTENTS OF A POSTCONVICTION MOTION.—

862 (a) No state court shall consider a postconviction motion
863 unless the motion is fully pled. For the purposes of this
864 subsection, a fully pled postconviction motion is one which
865 complies with paragraph (b). The fully pled postconviction
866 motion must raise all cognizable claims that the defendant's
867 judgment or sentence was entered in violation of the
868 Constitution or laws of the United States or the Constitution or
869 the laws of the state, including any claim of ineffective
870 assistance of trial counsel or direct appeal counsel,

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871 allegations of innocence, or that the state withheld evidence
872 favorable to the defendant.

873 (b) The defendant's postconviction motion shall be filed
874 under oath and shall be fully pled to include:

875 1. The judgment or sentence under attack and the court
876 which rendered the same;

877 2. A statement of each issue raised on appeal and the
878 disposition thereof;

879 3. Whether a previous postconviction motion has been filed
880 and, if so, the disposition of all previous claims raised in
881 postconviction litigation; if a previous motion or motions have
882 been filed, the reason or reasons the claim or claims in the
883 present motion were not raised in the former motion or motions;

884 4. The nature of the relief sought;

885 5. A fully detailed allegation of the factual basis for any
886 claim for which an evidentiary hearing is sought, including the
887 attachment of any document supporting the claim, the name and
888 address of any witness, the attachment of affidavits of the
889 witnesses or a proffer of the testimony;

890 6. A fully detailed allegation as to the basis for any
891 purely legal or constitutional claim for which an evidentiary
892 hearing is not required and the reason that this claim could not
893 have been or was not raised on direct appeal; and

894 7. A concise memorandum of applicable case law as to each
895 claim asserted.

896 (c) A postconviction motion and memorandum of law filed
897 under this subsection shall not exceed 75 pages exclusive of the
898 attachments. Attachments shall include, but are not limited to,
899 the judgment and sentence. The memorandum of law shall set forth

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900 the applicable case law supporting the granting of relief as to
901 each separately pled claim.

902 (d) Claims raised in a postconviction motion that could
903 have or should have been raised at trial and, if properly
904 preserved, on direct appeal of the judgment and sentence, are
905 barred.

906 (e) A postconviction motion may not include a claim of
907 ineffective assistance of collateral postconviction counsel.

908 (f) A postconviction motion may not be amended without
909 court approval. In no instance shall such motion be amended
910 beyond the time limitations provided by subsection (3) for the
911 filing of a postconviction motion. If amendment is allowed, the
912 state shall file an amended answer within 20 days after the
913 amended motion is filed.

914 (g) Any postconviction motion that does not comply with any
915 requirement in this subsection shall not be considered in any
916 state court.

917 (5) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.—

918 (a) All pleadings in a postconviction proceeding shall be
919 filed with the clerk of the trial court and served on the
920 assigned judge, opposing party, and the Attorney General. The
921 clerk shall immediately deliver to the chief judge or the
922 assigned judge any motion filed in a postconviction proceeding
923 along with the court file.

924 (b) If the defendant intends to offer expert testimony of
925 his or her mental status in a postconviction proceeding, the
926 state shall be entitled to have the defendant examined by its
927 own mental health expert. If the defendant fails to cooperate
928 with the state's expert, the trial court may, in its discretion,

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929 proceed as provided in rule 3.202(e) of the Florida Rules of
930 Criminal Procedure. Reports provided to either party by an
931 expert witness shall be disclosed to opposing counsel upon
932 receipt.

933 (c) The state shall file its answer within 60 days of the
934 filing of an initial postconviction motion. The answer and
935 accompanying memorandum of law shall not exceed 75 pages,
936 exclusive of attachments and exhibits. The answer shall address
937 the legal sufficiency of any claim in the motion, respond to the
938 allegations of the motion, address any procedural bars, and
939 state the reasons that an evidentiary hearing is or is not
940 required. As to any claims of legal insufficiency or procedural
941 bar, the state shall include a short statement of any applicable
942 case law.

943 (d) No later than 30 days after the state files its answer
944 to an initial motion, the trial court shall hold a case
945 management conference. At the case management conference, both
946 parties shall disclose all documentary exhibits that they intend
947 to offer at the evidentiary hearing, provide an exhibit list of
948 all such exhibits, and exchange a witness list with the names
949 and addresses of any potential witnesses. All expert witnesses
950 shall be specifically designated on the witness list, and copies
951 of all expert reports shall be attached. At the case management
952 conference, the trial court shall:

953 1. Schedule an evidentiary hearing, to be held within 90
954 days, on claims listed by the defendant as requiring a factual
955 determination;

956 2. Hear argument on any purely legal claims not based on
957 disputed facts; and

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958 3. Resolve disputes arising from the exchange of
959 information under this paragraph.

960 (e) If the court determines that an evidentiary hearing is
961 not necessary and that the defendant's postconviction motion is
962 legally insufficient or that the motion, files, and records in
963 the case show that the defendant is not entitled to relief, the
964 court shall, within 30 days of the conclusion of the case
965 management conference, deny the motion, setting forth a detailed
966 rationale therefore, and attaching or referencing such portions
967 of the record as are necessary to allow for meaningful appellate
968 review.

969 (f) Immediately following an evidentiary hearing, the trial
970 court shall order a transcript of the hearing which shall be
971 filed within 30 days. Within 30 days of receipt of the
972 transcript, the court shall render its order, ruling on each
973 claim considered at the evidentiary hearing and all other claims
974 raised in the postconviction motion, making detailed findings of
975 fact and conclusions of law with respect to each claim, and
976 attaching or referencing such portions of the record as are
977 necessary to allow for meaningful appellate review. The order
978 issued after the evidentiary hearing shall resolve all the
979 claims raised in the postconviction motion and shall be
980 considered the final order for purposes of appeal. The clerk of
981 the trial court shall promptly serve upon the parties and the
982 Attorney General a copy of the final order, with a certificate
983 of service.

984 (g) Motions for rehearing shall be filed within 15 days of
985 the rendition of the trial court's order and a response thereto
986 filed within 10 days thereafter. The trial court's order

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987 disposing of the motion for rehearing shall be rendered no later
988 than 15 days after the response is filed.

989 (h) An appeal may be taken by filing a notice to appeal
990 with the Florida Supreme Court within 15 days of the entry of a
991 final order on a capital postconviction motion. No interlocutory
992 appeal shall be permitted.

993 Section 22. Section 924.057, Florida Statutes, is amended
994 to read:

995 924.057 ~~Limitation on~~ Capital postconviction proceedings in
996 cases in which the conviction and sentence of death were
997 affirmed on direct appeal before July 1, 2015 ~~death sentence was~~
998 ~~imposed before January 14, 2000. This section shall govern all~~
999 ~~capital postconviction actions in cases in which the trial court~~
1000 ~~imposed the sentence of death before the effective date of this~~
1001 ~~act.~~

1002 (1) Nothing in this act shall expand any right or time
1003 period allowed for the prosecution of capital postconviction
1004 claims in any case in which a postconviction action was
1005 commenced or should have been commenced prior to the effective
1006 date of this act.

1007 (2) Postconviction proceedings in every capital case in
1008 which the conviction and sentence of death have been affirmed on
1009 direct appeal before July 1, 2015, shall be governed by the
1010 rules and laws in effect immediately prior to the effective date
1011 of this act.

1012 ~~(2) Except as provided in s. 924.056(5), in every case in~~
1013 ~~which mandate has issued in the Florida Supreme Court concluding~~
1014 ~~at least one capital postconviction action in the state court~~
1015 ~~system, a successive capital postconviction action shall be~~

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1016 ~~barred on the effective date of this act, unless the rules or~~
1017 ~~law in effect immediately prior to the effective date of this~~
1018 ~~act permitted the successive postconviction action, in which~~
1019 ~~case the action shall be barred on the date provided in~~
1020 ~~subsection (4).~~

1021 ~~(3) All capital postconviction actions pending on the~~
1022 ~~effective date of this act shall be barred, and shall be~~
1023 ~~dismissed with prejudice, unless fully pled in substantial~~
1024 ~~compliance with s. 924.058, or with any superseding order or~~
1025 ~~rule, on or before:~~

1026 ~~(a) The time in which the action would be barred by this~~
1027 ~~section if the action had not begun prior to the effective date~~
1028 ~~of this act, or~~

1029 ~~(b) Any earlier date provided by the rules or law, or court~~
1030 ~~order, in effect immediately prior to the effective date of this~~
1031 ~~act.~~

1032 ~~(4) In every capital case in which the trial court imposed~~
1033 ~~the sentence of death before the effective date of this act, a~~
1034 ~~capital postconviction action shall be barred unless it is~~
1035 ~~commenced on or before January 8, 2001, or any earlier date~~
1036 ~~provided by the rule or law in effect immediately prior to the~~
1037 ~~effective date of this act.~~

1038 Section 23. Section 924.058, Florida Statutes, is amended
1039 to read:

1040 (Substantial rewording of section.

1041 See s. 924.058, F.S., for present text.)

1042 924.058 Successive postconviction motions.—This section
1043 governs successive postconviction motions in all postconviction
1044 proceedings in every capital case in which the conviction and

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1045 sentence of death have been affirmed on direct appeal on or
1046 after July 1, 2015. A postconviction motion is successive if a
1047 state court has previously ruled on a postconviction motion
1048 challenging the same judgment and sentence.

1049 (1) TIME LIMITATIONS ON FILING A SUCCESSIVE POSTCONVICTION
1050 MOTION.—

1051 (a) A successive postconviction motion is barred unless
1052 commenced by filing a fully pled successive postconviction
1053 motion within 90 days:

1054 1. After the facts giving rise to the claim were discovered
1055 or should have been discovered with the exercise of due
1056 diligence; or

1057 2. After the fundamental constitutional right asserted was
1058 established and held to apply retroactively.

1059 (b) No successive postconviction motion shall be filed or
1060 considered pursuant to this subsection if filed beyond the time
1061 limitation provided in paragraph (a) unless it alleges that
1062 postconviction counsel, through neglect, failed to file the
1063 motion.

1064 (2) CONTENTS OF A SUCCESSIVE POSTCONVICTION MOTION.—

1065 (a) No state court shall consider a successive
1066 postconviction motion unless the motion is fully pled. For the
1067 purposes of this subsection, a fully pled successive
1068 postconviction motion includes:

1069 1. All of the pleading requirements of an initial
1070 postconviction motion under s. 924.056;

1071 2. The disposition of all previous claims raised in
1072 postconviction proceedings and the reason or reasons the claim
1073 or claims raised in the present motion were not raised in the

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1074 former motion or motions;

1075 3. If based upon newly discovered evidence, *Brady v.*
1076 *Maryland*, 373 U.S. 83 (1963), or *Giglio v. United States*, 405
1077 U.S. 150 (1972), the following:

1078 a. The names, addresses, and telephone numbers of all
1079 witnesses supporting the claim;

1080 b. A statement that the witness will be available, should
1081 an evidentiary hearing be scheduled, to testify under oath to
1082 the facts alleged in the motion or affidavit;

1083 c. If evidentiary support is in the form of documents,
1084 copies of all documents shall be attached, including any
1085 affidavits obtained; and

1086 d. As to any witness or document listed in the motion or
1087 attachment to the motion, a statement of the reason why the
1088 witness or document was not previously available.

1089 (b) A successive postconviction motion and memorandum of
1090 law filed under this subsection shall not exceed 25 pages
1091 exclusive of the attachments. Attachments shall include, but are
1092 not limited to, the judgment and sentence. The memorandum of law
1093 shall set forth the applicable case law supporting the granting
1094 of relief as to each separately pled claim.

1095 (c) Claims raised in a successive postconviction motion
1096 that could have or should have been raised at trial, on direct
1097 appeal of the judgment and sentence, if properly preserved, and
1098 in the initial postconviction motion, are barred.

1099 (d) A successive postconviction motion may not include a
1100 claim of ineffective assistance of collateral postconviction
1101 counsel.

1102 (e) A succesive postconviction motion may not be amended

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1103 without court approval. In no instance shall such motion be
1104 amended beyond the time limitations provided by subsection (1)
1105 for the filing of a successive postconviction motion. If
1106 amendment is allowed, the state shall file an amended answer
1107 within 20 days after the amended motion is filed.

1108 (f) Any successive postconviction motion that does not
1109 comply with any requirement in this subsection shall not be
1110 considered in any state court.

1111 (3) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION.—

1112 (a) If the defendant intends to offer expert testimony of
1113 his or her mental status in a successive postconviction motion
1114 proceeding, the state shall be entitled to have the defendant
1115 examined by its own mental health expert. If the defendant fails
1116 to cooperate with the state's expert, the trial court may, in
1117 its discretion, proceed as provided in rule 3.202(e) of the
1118 Florida Rules of Criminal Procedure. Reports provided to either
1119 party by an expert witness shall be disclosed to opposing
1120 counsel upon receipt.

1121 (b) The state shall file its answer within 20 days of the
1122 filing of a successive postconviction motion. The answer shall
1123 not exceed 25 pages, exclusive of attachments and exhibits. The
1124 answer shall address the legal sufficiency of any claim in the
1125 motion, respond to the allegations of the motion, address any
1126 procedural bars, and state the reasons that an evidentiary
1127 hearing is or is not required. As to any claims of legal
1128 insufficiency or procedural bar, the answer shall include a
1129 short statement of any applicable case law.

1130 (c) No later than 30 days after the state files its answer
1131 to a successive postconviction motion, the trial court shall

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1132 hold a case management conference. At the case management
1133 conference, both parties shall disclose all documentary exhibits
1134 that they intend to offer at the evidentiary hearing, provide an
1135 exhibit list of all such exhibits, and exchange a witness list
1136 with the names and addresses of any potential witnesses. All
1137 expert witnesses shall be specifically designated on the witness
1138 list, and copies of all expert reports shall be attached. At the
1139 case management conference, the trial court shall:

1140 1. Schedule an evidentiary hearing, to be held within 90
1141 days, on claims listed by the defendant as requiring a factual
1142 determination;

1143 2. Hear argument on any purely legal claims not based on
1144 disputed facts; and

1145 3. Resolve disputes arising from the exchange of
1146 information under this paragraph.

1147 (d) If the court determines that an evidentiary hearing is
1148 not necessary and that the defendant's successive postconviction
1149 motion is legally insufficient or that the motion, files, and
1150 records in the case show that the defendant is not entitled to
1151 relief, the court shall, within 30 days of the conclusion of the
1152 case management conference, deny the motion, setting forth a
1153 detailed rationale therefore, and attaching or referencing such
1154 portions of the record as are necessary to allow for meaningful
1155 appellate review.

1156 (e) Immediately following an evidentiary hearing, the trial
1157 court shall order a transcript of the hearing which shall be
1158 filed within 30 days. Within 30 days of receipt of the
1159 transcript, the court shall render its order, ruling on each
1160 claim considered at the evidentiary hearing and all other claims

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1161 raised in the successive postconviction motion, making detailed
1162 findings of fact and conclusions of law with respect to each
1163 claim, and attaching or referencing such portions of the record
1164 as are necessary to allow for meaningful appellate review. The
1165 order issued after the evidentiary hearing shall resolve all the
1166 claims raised in the successive postconviction motion and shall
1167 be considered the final order for purposes of appeal. The clerk
1168 of the trial court shall promptly serve upon the parties and the
1169 Attorney General a copy of the final order, with a certificate
1170 of service.

1171 (f) Motions for rehearing shall be filed within 15 days of
1172 the rendition of the trial court's order and a response thereto
1173 filed within 10 days thereafter. The trial court's order
1174 disposing of the motion for rehearing shall be rendered no later
1175 than 15 days after the response is filed.

1176 (g) An appeal may be taken by filing a notice to appeal
1177 with the Florida Supreme Court within 15 days of the entry of a
1178 final order on a capital postconviction motion. No interlocutory
1179 appeal shall be permitted.

1180 Section 24. Section 924.0581, Florida Statutes, is created
1181 to read:

1182 924.0581 Capital postconviction appeals to the Florida
1183 Supreme Court.—This section governs capital postconviction
1184 appeals to the Florida Supreme Court in every capital case in
1185 which the conviction and sentence of death have been affirmed on
1186 direct appeal on or after July 1, 2015.

1187 (1) Initial and Successive Postconviction Motion Appeals.—

1188 (a) When the notice of appeal is filed in the Florida
1189 Supreme Court, the chief justice shall direct the appropriate

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1190 chief judge of the circuit court to monitor the preparation of
1191 the complete record for timely filing in the Florida Supreme
1192 Court.

1193 (b) The complete record in a death penalty appeal shall
1194 include transcripts of all proceedings conducted in the lower
1195 court, all items required by rule 9.200 of the Florida Rules of
1196 Appellate Procedure, and any item listed in any order issued by
1197 the Florida Supreme Court. The record shall begin with the most
1198 recent mandate issued by the Florida Supreme Court; or, in the
1199 event the preceding appeal was disposed of without a mandate,
1200 the most recent filing not already transmitted to the Florida
1201 Supreme Court in a prior record. The record shall exclude any
1202 materials already transmitted to the Florida Supreme Court as
1203 the record in any prior appeal.

1204 (c) The Florida Supreme Court shall take judicial notice of
1205 the appellate records in all prior appeals and writ proceedings
1206 involving a challenge to the same judgment of conviction and
1207 sentence of death. Appellate records subject to judicial notice
1208 under this section shall not be duplicated in the record
1209 transmitted for the appeal under review.

1210 (d) If the sentencing court has denied the initial or
1211 successive postconviction motion without an evidentiary hearing,
1212 the Florida Supreme Court shall initially review the case to
1213 determine whether the trial court correctly resolved the
1214 defendant's claims without an evidentiary hearing. If the
1215 Florida Supreme Court determines an evidentiary hearing should
1216 have been held, the court may remand the case for an evidentiary
1217 hearing. Jurisdiction shall be relinquished to the trial court
1218 for the purpose of conducting an evidentiary hearing on any

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1219 issues identified in the Florida Supreme Court's order. The
1220 trial court must schedule an evidentiary hearing within 30 days
1221 of the Florida Supreme Court's order and conclude the hearing
1222 within 90 days of scheduling. Upon conclusion of the evidentiary
1223 hearing, the record shall be supplemented with the hearing
1224 transcript.

1225 (e) The defendant has 30 days from the date the record is
1226 filed to file an initial brief. The answer brief must be filed
1227 within 20 days after filing of the initial brief. The reply
1228 brief, if any, must be filed within 20 days after filing of the
1229 answer brief. The cross-reply brief, if any, shall be filed
1230 within 20 days thereafter. A brief submitted after these time
1231 periods is barred and shall not be heard.

1232 (f) Oral arguments shall be scheduled within 30 days after
1233 the filing of the defendant's replay brief.

1234 (g)1. The Florida Supreme Court shall render its decision
1235 within 180 days after oral arguments have concluded. If a denial
1236 of an action for postconviction relief is affirmed, the Governor
1237 may proceed to issue a warrant for execution.

1238 2. In instances where the Florida Supreme Court does not
1239 comply with subparagraph 1., the Chief Justice of the Florida
1240 Supreme Court shall, within 10 days after the expiration of the
1241 180 day deadline, submit a report to the Speaker of the Florida
1242 House of Representatives and the President of the Florida Senate
1243 explaining why a decision was not timely rendered. The Chief
1244 Justice shall submit a report to the Speaker of the Florida
1245 House of Representatives and the President of the Florida Senate
1246 every 30 days thereafter in which a decision is not rendered
1247 explaining the reasons therefore.

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1248 (2) PETITIONS FOR EXTRAORDINARY RELIEF.—

1249 (a) Review proceedings under this subsection shall be
1250 treated as original proceedings under rule 9.100 of the Rules of
1251 Appellate Procedure, except as otherwise provided in this
1252 subsection.

1253 (b) A petition for extraordinary relief shall be in the
1254 form prescribed by rule 9.100 of the Rules of Appellate
1255 Procedure, may include supporting documents, and shall recite in
1256 the statement of facts:

1257 1. The date and nature of the lower tribunal's order sought
1258 to be reviewed;

1259 2. The name of the lower tribunal rendering the order;

1260 3. The nature, disposition, and dates of all previous court
1261 proceedings;

1262 4. If a previous petition was filed, the reason the claim
1263 in the present petition was not raised previously; and

1264 5. The nature of the relief sought.

1265 (c) 1. A petition for belated appeal shall include a
1266 detailed allegation of the specific acts sworn to by the
1267 petitioner or petitioner's counsel that constitute the basis for
1268 entitlement to belated appeal, including whether petitioner
1269 requested counsel to proceed with the appeal and the date of any
1270 such request, whether counsel misadvised the petitioner as to
1271 the availability of appellate review or the filing of the notice
1272 of appeal, or whether there were circumstances unrelated to
1273 counsel's action or inaction, including names of individuals
1274 involved and dates of the occurrences, that were beyond the
1275 petitioner's control and otherwise interfered with the
1276 petitioner's ability to file a timely appeal.

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1277 2. A petition for belated appeal shall not be filed more
1278 than 1 year after the expiration of time for filing the notice
1279 of appeal from a final order denying relief pursuant to s.
1280 924.056 or s. 924.058, unless it alleges under oath with a
1281 specific factual basis that the petitioner:

1282 a. Was unaware an appeal had not been timely filed, was not
1283 advised of the right to an appeal, was misadvised as to the
1284 rights to an appeal, or was prevented from timely filing a
1285 notice of appeal due to circumstances beyond the petitioner's
1286 control; and

1287 b. Could not have ascertained such facts by the exercise of
1288 due diligence.

1289 (d) A petition alleging ineffective assistance of appellate
1290 counsel must include detailed allegations of the specific acts
1291 that constitute the alleged ineffective assistance of counsel on
1292 direct appeal and must be filed simultaneously with the initial
1293 brief in the appeal from the lower tribunal's final order
1294 denying relief pursuant to s. 924.056 or s. 924.058.

1295 (3) PETITIONS SEEKING RELIEF OF NONFINAL ORDERS IN DEATH
1296 PENALTY POSTCONVICTION PROCEEDINGS.—

1297 (a) This subsection applies to proceedings that invoke the
1298 jurisdiction of the supreme court for review of nonfinal orders
1299 issued in postconviction proceedings following the imposition of
1300 the death penalty. Review of such proceedings shall be treated
1301 as original proceedings under rule 9.100 of the Rules of
1302 Appellate Procedure, except as otherwise provided in this
1303 subsection.

1304 (b) Jurisdiction of the Florida Supreme Court shall be
1305 invoked by filing a petition with the Clerk of the Florida

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1306 Supreme Court within 30 days of rendition of the nonfinal order
1307 to be reviewed. A copy of the petition shall be served on the
1308 opposing party and furnished to the judge who issued the order
1309 to be reviewed. Either party to the death penalty postconviction
1310 proceedings may seek review under this subsection.

1311 (c) The petition shall be in the form prescribed by rule
1312 9.100 of the Rules of Appellate Procedure, and shall contain:

1313 1. The basis for invoking the jurisdiction of the court;
1314 2. The date and nature of the order sought to be reviewed;
1315 3. The name of the lower tribunal rendering the order;
1316 4. The name, disposition, and dates of all previous trial,
1317 appellate, and postconviction proceedings relating to the
1318 conviction and death sentence that are the subject of the
1319 proceedings in which the order sought to be reviewed was
1320 entered;

1321 5. The facts on which the petitioner relies, with
1322 references to the appropriate pages of the supporting appendix;

1323 6. Argument in support of the petition, including an
1324 explanation of why the order departs from the essential
1325 requirements of law and how the order may cause material injury
1326 for which there is no adequate remedy on appeal, and appropriate
1327 citations of authority; and

1328 7. The nature of the relief sought.

1329 (d) The petition shall be accompanied by an appendix, as
1330 prescribed by rule 9.220 of the Rules of Appellate Procedure,
1331 which shall contain the portions of the record necessary for a
1332 determination of the issues presented.

1333 (e) If the petition demonstrates a preliminary basis for
1334 relief or a departure from the essential requirements of law

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1335 that may cause material injury for which there is no adequate
1336 remedy by appeal, the court may issue an order directing the
1337 respondent to show cause, within the time set by the court, why
1338 relief should not be granted. No response shall be permitted
1339 unless ordered by the court. Within 20 days after service of the
1340 response or such other time set by the court, the petitioner may
1341 serve a reply, which shall not exceed 15 pages in length, and
1342 supplemental appendix.

1343 (f) A stay of proceedings under this subsection is not
1344 automatic. The party seeking a stay must petition the Florida
1345 Supreme Court for a stay of proceedings. During the pendency of
1346 a review of a nonfinal order, unless a stay is granted by the
1347 Florida Supreme Court, the lower tribunal may proceed with all
1348 matters, except that the lower tribunal may not render a final
1349 order disposing of the cause pending review of the nonfinal
1350 order.

1351 (g) The parties may not file any other pleadings, motions,
1352 replies, or miscellaneous papers without leave of court.

1353 (h) Seeking review under this subsection shall not extend
1354 the time limitations in s. 924.056, s. 924.058, or s. 27.7081.

1355 Section 25. Effective July 1, 2013, section 924.0585,
1356 Florida Statutes, is created to read:

1357 924.0585 Capital postconviction proceedings; reporting
1358 requirements.—The Florida Supreme Court shall annually report to
1359 the Speaker of the Florida House of Representatives and the
1360 President of the Florida Senate the status of each capital case
1361 in which a postconviction action has been filed that has been
1362 pending for more than 3 years. The report must include the name
1363 of the state court judge involved in the case.

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1364 Section 26. Section 924.0585, Florida Statutes, as created
1365 by this act, is amended to read:

1366 924.0585 Capital postconviction proceedings; reporting
1367 requirements.—

1368 (3) A capital postconviction action filed in violation of
1369 the time limitations provided by statute is barred, and all
1370 claims raised therein are waived. A state court shall not
1371 consider any capital postconviction action filed in violation of
1372 s. 924.056 or s. 924.058. The Attorney General shall deliver to
1373 the Governor, the President of the Senate, and the Speaker of
1374 the House of Representatives a copy of any pleading or order
1375 that alleges or adjudicates any violation of this provision.

1376 Section 27. Section 924.059, Florida Statutes, is amended
1377 to read:

1378 (Substantial rewording of section.

1379 See s. 924.059, F.S., for present text.)

1380 924.059 Conflicts of interest in capital postconviction
1381 proceedings.—In any capital postconviction proceeding in which
1382 it is alleged that there is a conflict of interest with
1383 postconviction counsel, the court shall hold a hearing within 30
1384 days of such allegation to determine whether an actual conflict
1385 exists and whether such conflict will adversely affect a
1386 defendant's lawyer's performance. An actual conflict of interest
1387 exists when an attorney actively represents conflicting
1388 interests. To demonstrate an actual conflict, the defendant must
1389 identify specific evidence suggesting that his or her interests
1390 were or may be compromised. A possible, speculative, or merely
1391 hypothetical conflict is insufficient to support an allegation
1392 that a conflict of interest exists. The court must rule within

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1393 10 days of the conclusion of the hearing.

1394 Section 28. Section 924.0591, Florida Statutes, is created
1395 to read:

1396 924.0591 Incompetence to proceed in capital postconviction
1397 proceedings.-

1398 (1) A death-sentenced inmate pursuing collateral relief who
1399 is found by the court to be mentally incompetent shall not be
1400 proceeded against if there are factual matters at issue, the
1401 development or resolution of which require the inmate's input.
1402 However, all collateral relief issues that involve only matters
1403 of record and claims that do not require the inmate's input
1404 shall proceed in collateral proceedings notwithstanding the
1405 inmate's incompetency.

1406 (2) If, at any stage of a postconviction proceeding, the
1407 court determines that there are reasonable grounds to believe
1408 that a death-sentenced inmate is incompetent to proceed and that
1409 factual matters are at issue, the development or resolution of
1410 which require the inmate's input, a judicial determination of
1411 incompetency is required.

1412 (3) Collateral counsel may file a motion for competency
1413 determination and an accompanying certificate of counsel that
1414 the motion is made in good faith and on reasonable grounds to
1415 believe that the death-sentenced inmate is incompetent to
1416 proceed. The motion and certificate shall replace the signed
1417 oath by the inmate that otherwise must accompany a
1418 postconviction motion filed under s. 924.056 and s. 924.058.

1419 (4) The motion for competency examination shall be in
1420 writing and shall allege with specificity the factual matters at
1421 issue and the reason that a competency consultation with the

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1422 inmate is necessary with respect to each factual matter
1423 specified. To the extent that it does not invade the lawyer-
1424 client privilege with collateral counsel, the motion shall
1425 contain a recital of the specific observations of, and
1426 conversations with, the death-sentenced inmate that have formed
1427 the basis of the motion.

1428 (5) If the court finds that there are reasonable grounds to
1429 believe that a death-sentenced inmate is incompetent to proceed
1430 in a postconviction proceeding in which factual matters are at
1431 issue, the development or resolution of which require the
1432 inmate's input, the court shall order the inmate examined by no
1433 more than 3, nor fewer than 2, experts before setting the matter
1434 for a hearing. The court may seek input from the death-sentenced
1435 inmate's counsel and the state attorney before appointment of
1436 the experts.

1437 (6) The order appointing experts shall:

1438 (a) Identify the purpose of the evaluation and specify the
1439 area of inquiry that should be addressed;

1440 (b) Specify the legal criteria to be applied; and

1441 (c) Specify the date by which the report shall be submitted
1442 and to whom it shall be submitted.

1443 (7) Counsel for both the death-sentenced inmate and the
1444 state may be present at the examination, which shall be
1445 conducted at a date and time convenient for all parties and the
1446 Department of Corrections.

1447 (8) On appointment by the court, the experts shall examine
1448 the death-sentenced inmate with respect to the issue of
1449 competence to proceed, as specified by the court in its order
1450 appointing the experts to evaluate the inmate, and shall

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1451 evaluate the inmate as ordered.

1452 (a) The experts first shall consider factors related to the
1453 issue of whether the death-sentenced inmate meets the criteria
1454 for competence to proceed, that is, whether the inmate has
1455 sufficient present ability to consult with counsel with a
1456 reasonable degree of rational understanding and whether the
1457 inmate has a rational as well as factual understanding of the
1458 pending collateral proceedings.

1459 (b) In considering the issue of competence to proceed, the
1460 experts shall consider and include in their report:

1461 1. The inmate's capacity to understand the adversary nature
1462 of the legal process and the collateral proceedings;

1463 2. The inmate's ability to disclose to collateral counsel
1464 facts pertinent to the postconviction proceeding at issue; and

1465 3. Any other factors considered relevant by the experts and
1466 the court as specified in the order appointing the experts.

1467 (c) Any written report submitted by an expert shall:

1468 1. Identify the specific matters referred for evaluation;

1469 2. Describe the evaluative procedures, techniques, and
1470 tests used in the examination and the purpose or purposes for
1471 each;

1472 3. State the expert's clinical observations, findings, and
1473 opinions on each issue referred by the court for evaluation, and
1474 indicate specifically those issues, if any, on which the expert
1475 could not give an opinion; and

1476 4. Identify the sources of information used by the expert
1477 and present the factual basis for the expert's clinical findings
1478 and opinions.

1479 (9) If the experts find that the death-sentenced inmate is

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1480 incompetent to proceed, the experts shall report on any
1481 recommended treatment for the inmate to attain competence to
1482 proceed. In considering the issues relating to treatment, the
1483 experts shall report on:

1484 (a) The mental illness or mental retardation causing the
1485 incompetence;

1486 (b) The treatment or treatments appropriate for the mental
1487 illness or mental retardation of the inmate and an explanation
1488 of each of the possible treatment alternatives in order of
1489 choices; and

1490 (c) The likelihood of the inmate attaining competence under
1491 the treatment recommended, an assessment of the probable
1492 duration of the treatment required to restore competence, and
1493 the probability that the inmate will attain competence to
1494 proceed in the foreseeable future.

1495 (10) Within 30 days after the experts have completed their
1496 examinations of the death-sentenced inmate, the court shall
1497 schedule a hearing on the issue of the inmate's competence to
1498 proceed.

1499 (11) If, after a hearing, the court finds the inmate
1500 competent to proceed, or, after having found the inmate
1501 incompetent, finds that competency has been restored, the court
1502 shall enter its order so finding and shall proceed with a
1503 postconviction motion. The inmate shall have 60 days to amend
1504 his or her postconviction motion only as to those issues that
1505 the court found required factual consultation with counsel.

1506 (12) If the court does not find the inmate incompetent, the
1507 order shall contain:

1508 (a) Findings of fact relating to the issues of competency;

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1509 (b) Copies of the reports of the examining experts; and

1510 (c) Copies of any other psychiatric, psychological, or
1511 social work reports submitted to the court relative to the
1512 mental state of the death-sentenced inmate.

1513 (13) If the court finds the inmate incompetent or finds the
1514 inmate competent subject to the continuation of appropriate
1515 treatment, the court shall follow the procedures set forth in
1516 rule 3.212(c) of the Florida Rules of Criminal Procedure, except
1517 that, to the extent practicable, any treatment shall take place
1518 at a custodial facility under the direct supervision of the
1519 Department of Corrections.

1520 Section 29. Section 924.0592, Florida Statutes, is created
1521 to read:

1522 924.0592 Capital postconviction proceedings after a death
1523 warrant has been issued.—This section governs all postconviction
1524 proceedings in every capital case in which the conviction and
1525 sentence of death have been affirmed on direct appeal on or
1526 after July 1, 2015, and in which a death warrant has been
1527 issued.

1528 (1) Upon issuance of a death warrant pursuant to s. 922.052
1529 or s. 922.14, the issuing entity shall notify the chief judge of
1530 the circuit that sentenced the inmate to death. The chief judge
1531 shall assign the case to a judge qualified under the Rules of
1532 Judicial Administration to conduct capital cases immediately
1533 upon receipt of such notification.

1534 (2) Postconviction proceedings after a death warrant has
1535 been issued shall take precedence over all other cases. The
1536 assigned judge shall make every effort to resolve scheduling
1537 conflicts with other cases including cancellation or

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1538 rescheduling of hearings or trials and requesting senior judge
1539 assistance.

1540 (3) The time limitations provided in s. 924.056 and s.
1541 924.058 do not apply after a death warrant has been issued. All
1542 postconviction motions filed after a death warrant has been
1543 issued shall be heard expeditiously considering the time
1544 limitations set by the date of execution and the time required
1545 for appellate review.

1546 (4) The location of any hearings after a death warrant is
1547 issued shall be determined by the trial judge considering the
1548 availability of witnesses or evidence, the security problems
1549 involved in the case, and any other factor determined by the
1550 trial court.

1551 (5) All postconviction motions filed after a death warrant
1552 is issued shall be considered successive motions and subject to
1553 the content requirement of s. 924.058.

1554 (6) The assigned judge shall schedule a case management
1555 conference as soon as reasonably possible after receiving
1556 notification that a death warrant has been issued. During the
1557 case management conference the court shall set a time for filing
1558 a postconviction motion, shall schedule a hearing to determine
1559 whether an evidentiary hearing should be held, and shall hear
1560 arguments on any purely legal claims not based on disputed
1561 facts. If the postconviction motion, files, and records in the
1562 case conclusively show that the movant is entitled to no relief,
1563 the motion may be denied without an evidentiary hearing. If the
1564 trial court determines that an evidentiary hearing should be
1565 held, the court shall schedule the hearing to be held as soon as
1566 reasonably possible considering the time limitations set by the

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1567 date of execution and the time required for appellate review.

1568 (7) The assigned judge shall require all proceedings
1569 conducted pursuant to this section to be reported using the most
1570 advanced and accurate technology available in general use at the
1571 location of the hearing. The proceedings shall be transcribed
1572 expeditiously considering the time limitations set by the
1573 execution date.

1574 (8) The court shall obtain a transcript of all proceedings
1575 conducted pursuant to this section and shall render its order in
1576 accordance with s. 924.056(5) (e) as soon as possible after the
1577 hearing is concluded. A copy of the final order shall be
1578 electronically transmitted to the Supreme Court of Florida and
1579 to the attorneys of record. The record shall be immediately
1580 delivered to the clerk of the Supreme Court of Florida by the
1581 clerk of the trial court or as ordered by the assigned judge.
1582 The record shall also be electronically transmitted if the
1583 technology is available. A notice of appeal shall not be
1584 required to transmit the record.

1585 Section 30. Section 924.0593, Florida Statutes, is created
1586 to read:

1587 924.0593 Insanity at the time of execution.—

1588 (1) A person under sentence of death shall not be executed
1589 while insane. A person under sentence of death is insane for
1590 purposes of execution if the person lacks the mental capacity to
1591 understand the fact of the impending execution and the reason
1592 for it.

1593 (2) No motion for a stay of execution pending hearing,
1594 based on grounds of the inmate's insanity to be executed, shall
1595 be entertained by any court until such time as the Governor of

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1596 Florida has held appropriate proceedings for determining the
1597 issue pursuant to s. 922.07.

1598 (3) (a) On determination of the Governor of Florida,
1599 subsequent to the signing of a death warrant for an inmate under
1600 sentence of death and pursuant to s. 922.07, that the inmate is
1601 sane to be executed, counsel for the inmate may move for a stay
1602 of execution and a hearing based on the inmate's insanity to be
1603 executed. The motion:

1604 1. Shall be filed in the circuit court of the circuit in
1605 which the execution is to take place and shall be heard by one
1606 of the judges of that circuit or such other judge as shall be
1607 assigned by the Chief Justice of the Florida Supreme Court to
1608 hear the motion. The state attorney of the circuit shall
1609 represent the State of Florida in any proceedings held on the
1610 motion; and

1611 2. Shall be in writing and shall contain a certificate of
1612 counsel that the motion is made in good faith and on reasonable
1613 grounds to believe that the prisoner to be executed is insane.

1614 (b) Counsel for the inmate shall file, along with the
1615 motion, all reports of experts that were submitted to the
1616 governor pursuant to s. 922.07. If any of the evidence is not
1617 available to counsel for the inmate, counsel shall attach to the
1618 motion an affidavit so stating, with an explanation of why the
1619 evidence is unavailable.

1620 (c) Counsel for the inmate and the state may submit such
1621 other evidentiary material and written submissions including
1622 reports of experts on behalf of the inmate that are relevant to
1623 determination of the issue.

1624 (d) A copy of the motion and all supporting documents shall

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1625 be served on the Florida Department of Legal Affairs and the
1626 state attorney of the circuit in which the motion has been
1627 filed.

1628 (4) If the circuit judge, upon review of the motion and
1629 submissions, has reasonable grounds to believe that the inmate
1630 to be executed is insane, the judge shall grant a stay of
1631 execution and may order further proceedings which may include a
1632 hearing.

1633 (5) Any hearing on the insanity of the inmate to be
1634 executed shall not be a review of the Governor's determination,
1635 but shall be a hearing de novo. At the hearing, the issue the
1636 court must determine whether the inmate presently meets the
1637 criteria for insanity at time of execution, that is, whether the
1638 prisoner lacks the mental capacity to understand the fact of the
1639 pending execution and the reason for it.

1640 (6) The court may do any of the following as may be
1641 appropriate and adequate for a just resolution of the issues
1642 raised:

1643 (a) Require the presence of the inmate at the hearing;

1644 (b) Appoint no more than 3 disinterested mental health
1645 experts to examine the inmate with respect to the criteria for
1646 insanity and to report their findings and conclusions to the
1647 court; or

1648 (c) Enter such other orders as may be appropriate to
1649 effectuate a speedy and just resolution of the issues raised.

1650 (7) At hearings held pursuant to this section, the court
1651 may admit such evidence as the court deems relevant to the
1652 issues, including but not limited to the reports of expert
1653 witnesses, and the court shall not be strictly bound by the

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1654 rules of evidence.

1655 (8) If, at the conclusion of the hearing, the court finds,
1656 by clear and convincing evidence, that the inmate is insane, the
1657 court shall enter its order continuing the stay of the death
1658 warrant; otherwise, the court shall deny the motion and enter
1659 its order dissolving the stay of execution.

1660 Section 31. Section 924.0594, Florida Statutes, is created
1661 to read:

1662 924.0594 Dismissal of postconviction proceedings.—This
1663 section applies only when an inmate seeks both to dismiss a
1664 pending postconviction proceedings and to discharge collateral
1665 counsel.

1666 (1) If an inmate files a motion to dismiss a pending
1667 postconviction motion and to discharge collateral counsel pro
1668 se, the Clerk of the Court shall serve copies of the motion on
1669 counsel of record for both the inmate and the state. Counsel of
1670 record may file responses within 10 days.

1671 (2) The trial judge shall review the motion and the
1672 responses and schedule a hearing. The inmate, collateral
1673 counsel, and the state shall be present at the hearing.

1674 (3) The judge shall examine the inmate at the hearing and
1675 shall hear argument of the inmate, collateral counsel, and the
1676 state. No fewer than 2 or more than 3 qualified experts shall be
1677 appointed to examine the inmate if the judge concludes that
1678 there are reasonable grounds to believe the inmate is not
1679 mentally competent for purposes of this section. The experts
1680 shall file reports with the court setting forth their findings.
1681 Thereafter, the court shall conduct an evidentiary hearing and
1682 enter an order setting forth findings of competency or

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1683 incompetency.

1684 (4) If the inmate is found to be incompetent for purposes
1685 of this section, the court shall deny the motion without
1686 prejudice.

1687 (5) If the inmate is found to be competent for purposes of
1688 this section, the court shall conduct a complete
1689 Durocher/Faretta inquiry to determine whether the inmate
1690 knowingly, freely, and voluntarily wants to dismiss pending
1691 postconviction proceedings and discharge collateral counsel.

1692 (6) If the court determines that the inmate has made the
1693 decision to dismiss pending postconviction proceedings and
1694 discharge collateral counsel knowingly, freely, and voluntarily,
1695 the court shall enter an order dismissing all pending
1696 postconviction proceedings and discharging collateral counsel.
1697 If the court determines that the inmate has not made the
1698 decision to dismiss pending postconviction proceedings and
1699 discharge collateral counsel knowingly, freely, and voluntarily,
1700 the court shall enter an order denying the motion without
1701 prejudice.

1702 (7) If the court denies the motion, the inmate may seek
1703 review pursuant to s. 924.0581(2). If the court grants the
1704 motion:

1705 (a) A copy of the motion, the order, and the transcript of
1706 the hearing or hearings conducted on the motion shall be
1707 forwarded to the Clerk of the Supreme Court of Florida within 30
1708 days; and

1709 (b) Discharged counsel shall, within 10 days after issuance
1710 of the order, file with the clerk of the circuit court 2 copies
1711 of a notice seeking review in the Supreme Court of Florida, and

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1712 shall, within 20 days after the filing of the transcript, serve
1713 an initial brief. Both the inmate and the state may serve
1714 responsive briefs.

1715 (8) (a) Within 10 days of the rendition of an order granting
1716 a inmate's motion to discharge counsel and dismiss the motion
1717 for postconviction relief, discharged counsel must file with the
1718 clerk of the circuit court a notice seeking review in the
1719 Florida Supreme Court.

1720 (b) The circuit judge presiding over the motion to dismiss
1721 and discharge counsel shall order a transcript of the hearing to
1722 be prepared and filed with the clerk of the circuit court no
1723 later than 25 days from rendition of the final order. Within 30
1724 days of the granting of a motion to dismiss and discharge
1725 counsel, the clerk of the circuit court shall forward a copy of
1726 the motion, order, and transcripts of all hearings held on the
1727 motion to the Clerk of the Florida Supreme Court.

1728 (c) Within 20 days of the filing of the record in the
1729 Florida Supreme Court, discharged counsel shall serve an initial
1730 brief. Both the state and the prisoner may serve responsive
1731 briefs. All briefs must be served and filed as prescribed by
1732 rule 9.210 of the Rules of Appellate Procedure.

1733 (d) The Florida Supreme Court shall rule on the motion
1734 within 60 days of the last brief filing deadline.

1735 Section 32. If any provision of this act or the application
1736 thereof to any person or circumstance is held invalid, the
1737 invalidity does not affect other provisions or applications of
1738 the act which can be given effect without the invalid provision
1739 or application, and to this end the provisions of this act are
1740 declared severable.

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1741 Section 33. Except as otherwise provided herein, this act
1742 shall take effect July 1, 2015, contingent upon voter approval
1743 of SJR_____ in the General Election of 2014.