

1 A bill to be entitled

2 An act relating to criminal proceedings; providing a  
3 short title; amending s. 918.015, F.S.; specifying  
4 speedy trial periods for persons accused as  
5 perpetrators of acts of mass violence; defining the  
6 term "incident of mass violence"; providing for  
7 extension of time periods; providing construction;  
8 requesting the Supreme Court to adopt certain rules  
9 for the cases of persons accused as perpetrators of  
10 acts of mass violence concerning speedy trial periods,  
11 docketing of capital appeals, habeas proceedings, and  
12 screening of postconviction claims; amending s.  
13 922.052, F.S.; requiring the clerk of the Florida  
14 Supreme Court to provide a specified notice to the  
15 Governor concerning persons sentenced to death for  
16 incidents of mass violence; revising requirements for  
17 issuance of death warrants for persons convicted as  
18 perpetrators of acts of mass violence; amending s.  
19 924.056, F.S.; requiring that the Supreme Court make  
20 certain reports concerning the cases of persons  
21 accused as perpetrators of acts of mass violence;  
22 amending s. 27.710, F.S.; conforming a cross-  
23 reference; providing an effective date.

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

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Section 1. This act may be cited as the "Justice for Victims of Mass Violence Act."

Section 2. Section 918.015, Florida Statutes, is amended to read:

918.015 Right to speedy trial.—

(1)(a) In all criminal prosecutions the state and the defendant shall each have the right to a speedy trial.

(b)1. A defendant charged with an offense as a perpetrator of an incident of mass violence shall be brought to trial within 175 days after being taken into custody by the state or 60 days after being charged with such an offense by indictment or information, whichever is earlier.

2. As used in this paragraph:

a. The term "incident of mass violence" means an event or series of events with no intervening cooling-off period which involve intentional violent criminal acts, including shootings or acts of terrorism, which:

(I) Target groups of defenseless persons and result in death or injury to at least 4 persons.

(II) Cause physical, emotional, or psychological injury to a community.

An incident of mass violence is often, but need not be, designed to achieve political, economic, or social objectives.

51 b. The term "victim" means a person killed or injured  
52 during an incident of mass violence, not including the  
53 perpetrator.

54 3. The periods of time established in subparagraph 1. may  
55 be extended for exceptional circumstances, provided the period  
56 of time requested to be extended has not expired at the time the  
57 extension was procured. A request for extension under this  
58 subparagraph may not be granted without a hearing at which  
59 victims and their families may be heard. Exceptional  
60 circumstances shall not include general congestion of the  
61 court's docket, lack of diligent preparation, failure to obtain  
62 available witnesses, or other avoidable or foreseeable delays.  
63 Exceptional circumstances are those that, as a matter of  
64 substantial justice to the defendant or the state or both,  
65 require an order by the court. Exceptional circumstances  
66 include:

67 a. Unexpected illness, unexpected incapacity, or  
68 unforeseeable and unavoidable absence of a person whose presence  
69 or testimony is uniquely necessary for a full and adequate  
70 trial.

71 b. A showing by the defendant or the state that the case  
72 is so unusual and so complex, because of the number of  
73 defendants or the nature of the prosecution or otherwise, that  
74 it is unreasonable to expect adequate investigation or  
75 preparation within the periods of time established in

76 subparagraph 1.

77 c. A showing by the defendant or the state that specific  
78 evidence or testimony is not available despite diligent efforts  
79 to secure it, but will become available at a later time.

80 d. A showing by the defendant or the state of necessity  
81 for delay grounded on developments that could not have been  
82 anticipated and will materially affect the trial.

83 e. A showing that a delay is necessary to accommodate a  
84 codefendant, when there is reason not to sever the cases to  
85 proceed promptly with trial of the defendant.

86 f. A showing by the state that the defendant has caused  
87 major delay or disruption of preparation of proceedings, as by  
88 preventing the attendance of witnesses or otherwise.

89 4. This paragraph provides no substantive rights for a  
90 defendant if trial does not commence within the applicable  
91 period. A violation of this paragraph does not provide grounds  
92 to have a conviction or sentence set aside or create a cause of  
93 action for money damages against the state, a county, a  
94 municipality, or any agency, public official, or employee  
95 thereof.

96 (2) The Supreme Court shall, by rule ~~of said court,~~  
97 provide procedures through which the right to a speedy trial as  
98 guaranteed by subsection (1) and by s. 16, Art. I of the State  
99 Constitution, shall be realized. The Supreme Court is requested  
100 to adopt any rules necessary to implement paragraph (1)(b) to

101 the extent that it is procedural.

102 Section 3. The Supreme Court is requested to adopt rules  
103 for practice and procedure in all courts that require courts to  
104 give capital appeals and habeas proceedings in cases of  
105 defendants convicted as perpetrators of incidents of mass  
106 violence, as defined in s. 918.015(1)(b)2., Florida Statutes,  
107 priority over all other cases on their dockets.

108 Section 4. The Supreme Court is requested to create rules  
109 of procedure ensuring that only meritorious claims are  
110 entertained in successive postconviction proceedings in a case  
111 of a defendant convicted as a perpetrator of an incident of mass  
112 violence, as defined in s. 918.015(1)(b)2., Florida Statutes.  
113 The court is requested to consider adopting a rule of procedure  
114 for such cases requiring trial courts to perform an initial  
115 screening of all successive postconviction motions within 30  
116 days after briefing is completed and summarily dismiss any  
117 successive postconviction motion that clearly contains solely  
118 nonmeritorious claims within 30 days thereafter.

119 Section 5. Subsection (2) of section 922.052, Florida  
120 Statutes, is amended to read:

121 922.052 Issuance of warrant of execution.—

122 (2) (a) The clerk of the Florida Supreme Court shall inform  
123 the Governor in writing certifying that a person convicted and  
124 sentenced to death, ~~before or after the effective date of the~~  
125 ~~act,~~ has:

126 1. Completed such person's direct appeal and initial  
 127 postconviction proceeding in state court and habeas corpus  
 128 proceeding and appeal therefrom in federal court; or

129 2. Allowed the time permitted for filing a habeas corpus  
 130 petition in federal court to expire.

131 (b) Notwithstanding paragraph (a), the clerk of the  
 132 Florida Supreme Court shall inform the Governor in writing  
 133 certifying that a person convicted as a perpetrator of an  
 134 incident of mass violence, as defined in s. 918.015(1)(b)2., and  
 135 sentenced to death has completed such person's direct appeal and  
 136 initial postconviction proceeding in state court.

137 (c) ~~(b)~~ Within 30 days after receiving the letter of  
 138 certification from the clerk of the Florida Supreme Court, the  
 139 Governor shall issue a warrant for execution if the executive  
 140 clemency process has concluded, directing the warden to execute  
 141 the sentence within 180 days, at a time designated in the  
 142 warrant.

143 (d) ~~(e)~~ If, in the Governor's sole discretion, the clerk of  
 144 the Florida Supreme Court has not complied with ~~the provisions~~  
 145 ~~of~~ paragraph (a) or paragraph (b) with respect to any person  
 146 sentenced to death, the Governor may sign a warrant of execution  
 147 for such person where the executive clemency process has  
 148 concluded.

149 Section 6. Subsection (1) of section 924.056, Florida  
 150 Statutes, is amended to read:

151 924.056 ~~Capital postconviction proceedings;~~ Reporting  
 152 requirements; capital cases; incidents of mass violence.—

153 (1) The Supreme Court shall annually report to the Speaker  
 154 of the House of Representatives and the President of the Senate:

155 (a) The status of each capital case in which a  
 156 postconviction action has been filed that has been continuously  
 157 pending for more than 3 years. The report must include the name  
 158 of the state court judge involved in the case.

159 (b) The status of each case involving a defendant charged  
 160 as a perpetrator of an incident of mass violence, as defined in  
 161 s. 918.015(1)(b)2., in which:

162 1. The defendant was not brought to trial within 175 days  
 163 after being taken into custody by the state or within 60 days  
 164 after being charged with a crime of mass violence by indictment  
 165 or information, whichever is earlier;

166 2. A continuance was granted by the trial court; or

167 3. An appeal, habeas petition, postconviction motion, or  
 168 successive postconviction motion has been continuously pending  
 169 in any court for more than 1 year.

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 171 The report shall include the reason for delay in each case.

172 Section 7. Subsection (5) of section 27.710, Florida  
 173 Statutes, is amended to read:

174 27.710 Registry of attorneys applying to represent persons  
 175 in postconviction capital collateral proceedings; certification

176 of minimum requirements; appointment by trial court.-

177 (5) (a) Upon the motion of the capital collateral regional  
178 counsel to withdraw ~~pursuant to s. 924.056(1)(a)~~; or

179 (b) Upon notification by the state attorney or the  
180 Attorney General that:

181 1. Thirty days have elapsed since appointment of the  
182 capital collateral regional counsel and no entry of appearance  
183 has been filed ~~pursuant to s. 924.056~~; or

184 2. A person under sentence of death who was previously  
185 represented by private counsel is currently unrepresented in a  
186 postconviction capital collateral proceeding,

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188 the executive director shall immediately notify the trial court  
189 that imposed the sentence of death that the court must  
190 immediately appoint an attorney, selected from the current  
191 registry, to represent such person in collateral actions  
192 challenging the legality of the judgment and sentence in the  
193 appropriate state and federal courts. The court shall have the  
194 authority to strike a notice of appearance filed by a Capital  
195 Collateral Regional Counsel, if the court finds the notice was  
196 not filed in good faith and may so notify the executive director  
197 that the client is no longer represented by the Office of  
198 Capital Collateral Regional Counsel. In making an assignment,  
199 the court shall give priority to attorneys whose experience and  
200 abilities in criminal law, especially in capital proceedings,



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201 are known by the court to be commensurate with the  
202 responsibility of representing a person sentenced to death. The  
203 trial court must issue an order of appointment which contains  
204 specific findings that the appointed counsel meets the statutory  
205 requirements and has the high ethical standards necessary to  
206 represent a person sentenced to death.

207 Section 8. This act shall take effect October 1, 2020.