May 15, 2013

The Honorable Rick Scott  
Office of the Governor  
State of Florida  
The Capitol  
400 S. Monroe St.  
Tallahassee, FL  32399-0001

Dear Governor Scott:

On behalf of the American Bar Association (ABA), I write to urge you to veto H.B. 7083, the Timely Justice Act.

The American Bar Association takes no position on the propriety of the death penalty; our opposition to H.B. 7083 is based on our firm belief that a system that will take life must first give justice. We are most concerned that this legislation presents the specter of speeding up executions without including needed procedures to assure fairness and due process, which is particularly egregious because Florida leads the nation in exonerations of inmates on death row. This is not a judicious approach to the most serious cases our system of justice handles and will only undermine the public’s confidence in the fairness and integrity of the criminal justice process.

In 2006, a team of Florida legal experts assembled by the ABA—which included a prosecutor who had sought the death penalty, as well as a circuit court judge—found after more than two years of research and analysis that Florida’s application of the death penalty was fraught with legal deficiencies. Florida, for example, remains the only state in the country where a jury can recommend a death sentence by a simple majority vote. Other areas of serious concern included insufficient compensation and resources for lawyers undertaking capital representation, juror confusion concerning the applicable law in death penalty cases, racial and geographic disparity, and the treatment of people with mental illness in the system. None of these serious problems have been remedied to date. In lieu of legislation like H.B. 7083, justice would be better served by addressing these systemic problems in Florida’s capital punishment process.

The legislation calls for reinstatement of the Capital Collateral Regional Counsel Office for the northern part of the state and elimination of the “registry counsel” program that has taken its place for the past decade. While this is a welcome change, H.B. 7083 fails to account for those prisoners whose claims were litigated and exhausted under the registry counsel system and would now be subject to expedited execution procedures. Reform of the post-conviction counsel
system for northern Florida is greatly needed, but it must ensure justice and due process for all prisoners who have been affected by the failed registry system, not just those who may be sentenced to death in the future.

At present, Florida’s existing system cannot ensure fairness or accuracy, which must be the hallmarks of any case in which the death penalty is sought. The legislation before you does little to correct or prevent miscarriages of justice in cases where a person’s life is at stake, while possibly increasing the likelihood that an innocent person may be executed. I urge you to take this opportunity to instruct all branches of government to thoroughly review the state’s death penalty system and implement necessary reforms that will assure accuracy, fairness and due process. Members of the ABA’s Death Penalty Due Process Review Project would also welcome an opportunity to meet with you to discuss our concerns. For these reasons, we urge you to veto this legislation.

Sincerely,

Laurel G. Bellows
President