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ILLINOIS SUPREME COURT OFFICIALLY FILES NEW RULES IN DEATH PENALTY CASES

SPRINGFIELD – The Supreme Court of Illinois on Thursday officially filed new rules governing the trial of capital cases in the state and announced that most of the rules take effect immediately unless it is not feasible in pending cases or injustice would result.

The filing of the rules with the Clerk of the Court along with their effective dates culminates a process which began in April 1999 when the Supreme Court appointed the Special Committee on Capital Cases to assess the way the death penalty system is administered in Illinois.

The only rules which don't take effect immediately are those that require all attorneys in death penalty cases to be certified as a member of the Capital Litigation Trial Bar and judges who try capital cases to have attended a Capital Litigation Seminar. Those rules become effective one year from now.

However, rules establishing the administrative structure of the Capital Litigation Trial Bar and training seminars go into effect immediately so that attorneys and judges may begin the process of becoming certified and attending required seminars.

These are the highlights of the rules which go into effect immediately "unless the application of the new rules in a particular case pending at the time...would not be feasible or would work an injustice:"

1. Implementation of new requirements for the management and administration of death penalty cases, including the imposition of time deadlines for the State to give notice of its intention to seek the death penalty, appointment of two attorneys to represent every indigent capital defendant, authorization for discovery depositions of witnesses and requirements for case management conferences;
2. Imposition of standardized requirements of disclosures concerning DNA evidence;
3. The extension of criminal discovery rules to sentencing hearings in capital cases;

4. Revision of the Rules of Professional Conduct to specify that “the duty of a public prosecutor or other government lawyer is to seek justice, not merely to convict.

The creation of the capital litigation trial bar will establish a certified roll of attorneys who meet minimum standards of training and experience for defense counsel and assistant prosecutors appearing in death penalty cases. The provision for Capital Litigation Seminars will give specialized training for all judges who may preside over death penalty cases as part of their designated duties.

The rules changes consist of four entirely new Supreme Court rules and amend four existing rules, making it one of the most comprehensive revisions of the Court’s rules in recent history.

The rules were based on the work of the 17-member Special Supreme Court Committee, which was composed of experienced felony trial judges from around the state and one appellate judge. The chairman of the committee was the Hon. Thomas R. Fitzgerald, former head of the Criminal Division of the Cook County Circuit Court who has since been elected to a seat on the Supreme Court.

The Committee issued its first report in October 1999 and then conducted additional public hearings in Springfield and Chicago before issuing a new report containing 104 pages of supplemental findings and recommendations. The new rules, which were adopted by the Supreme Court during its January term, are the product of that new report and are substantially the same.

When the Supreme Court adopted the rules in January, Chief Justice Moses W. Harrison II noted that the Supreme Court’s power to make rules changes is limited to the authority the state Constitution grants the Supreme Court as part of its general supervisory authority over all the courts in the state. He noted that both the Governor and the General Assembly have formed separate committees to look into the death penalty process and that the Supreme Court rules are not intended as a substitute for the work of those committees.

“There are no easy solutions to the problems presented by this state’s present death penalty law,” Chief Justice Harrison said at the time. “Our Court can only change the things we have the power to change, and our power to change the law is narrowly limited. Ultimately, the fate of the state’s death penalty statute will be a matter for the General Assembly and the Governor to resolve.

“We believe however, that no matter what action the General Assembly and Governor may decide to take, the reforms we have adopted will significantly improve the quality of justice administered in Illinois.”