

By Senator Campbell

307-665B-99

1 A bill to be entitled
2 An act relating to conflicts of interests in
3 the representation of indigent defendants;
4 amending s. 27.53, F.S.; requiring that the
5 court review an alleged conflict of interest
6 without disclosing confidential information;
7 providing for withdrawal of the public defender
8 unless the court determines that the conflict
9 does not exist or the court is unable to make a
10 determination; requiring each circuit conflict
11 committee to assess the circuit's conflict
12 representation system; requiring that the
13 committees report findings and recommendations
14 to the Legislature; providing an effective
15 date.

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

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19 Section 1. Subsection (3) of section 27.53, Florida
20 Statutes, is amended to read:

21 27.53 Appointment of assistants and other staff;
22 method of payment.--

23 (3) If at any time during the representation of two
24 or more indigents, the public defender determines ~~shall~~
25 ~~determine~~ that the interests of those accused are so adverse
26 or hostile that they cannot all be counseled by the public
27 defender or his or her staff without conflict of interest, or
28 that none can be counseled by the public defender or his or
29 her staff because of conflict of interest, ~~it shall be~~ the
30 public defender shall file a motion to withdraw and ~~defender's~~
31 ~~duty to~~ move the court to appoint other counsel. The court

1 shall review and may inquire into the adequacy of the public
2 defender's representations regarding a conflict of interest
3 but shall not require the disclosure of any confidential
4 information. The court shall permit withdrawal unless the
5 court determines that the public defender has failed to
6 establish that a conflict of interest exists or the court is
7 unable to make a determination because the conflict is based
8 on confidential information. If the court grants the motion to
9 withdraw, it may appoint one or more members of The Florida
10 Bar, who are in no way affiliated with the public defender, in
11 his or her capacity as such, or in his or her private
12 practice, to represent those accused. However, the trial court
13 shall appoint such other counsel upon its own motion when the
14 facts developed upon the face of the record and files in the
15 cause disclose such conflict. The court shall advise the
16 appropriate public defender and clerk of court, in writing,
17 when making such appointment and state the conflict prompting
18 the appointment. The appointed attorney shall be compensated
19 as provided in s. 925.036.

20 Section 2. Each circuit conflict committee established
21 under section 925.037, Florida Statutes, shall assess the
22 circuit's conflict representation system and determine whether
23 another conflict representation system would be more
24 cost-effective, offer greater administrative control, and
25 provide representation of a higher quality in cases involving
26 a conflict of interest. In making this determination, the
27 committee shall consider other conflict representation
28 systems, including the attorney-management program established
29 in the Eighth Judicial Circuit. The committee shall also
30 determine how to improve the reliability of the information
31 and cost data that is reported for conflict cases within the

1 circuit. Each committee shall report its findings and
2 recommendations to the Legislature by February 1, 2000.

3 Section 3. This act shall take effect upon becoming a
4 law.

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7 SENATE SUMMARY

8 Requires that the court review alleged conflicts of
9 interest between indigent defendants represented by the
10 public defender without disclosing confidential
11 information. Authorizes the court to allow the public
12 defender to withdraw from a case unless the court
13 determines that the public defender has failed to
14 establish the existence of a conflict or unless the court
15 is unable to make such determination because the alleged
16 conflict is based on confidential information. Requires
17 that each circuit conflict committee assess the circuit's
18 conflict representation system and report its findings
19 and recommendations to the Legislature by February 1,
20 2000.