

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 communications;
7 providing for withdrawal of the public defender
8 unless the court determines that the conflict
9 is not prejudicial to the indigent defendant;
10 requiring each circuit conflict committee to
11 assess the circuit's conflict representation
12 system; requiring that the committees report
13 findings and recommendations to the
14 Legislature; providing an effective date.

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

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

20 27.53 Appointment of assistants and other staff;
21 method of payment.--

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

1 adequacy of the public defender's representations regarding a
2 conflict of interest without requiring the disclosure of any
3 confidential communications. The court shall permit withdrawal
4 unless the court determines that the asserted conflict is not
5 prejudicial to the indigent client. If the court grants the
6 motion to withdraw, it may appoint one or more members of The
7 Florida Bar, who are in no way affiliated with the public
8 defender, in his or her capacity as such, or in his or her
9 private practice, to represent those accused. However, the
10 trial court shall appoint such other counsel upon its own
11 motion when the facts developed upon the face of the record
12 and files in the cause disclose such conflict. The court
13 shall advise the appropriate public defender and clerk of
14 court, in writing, when making such appointment and state the
15 conflict prompting the appointment. The appointed attorney
16 shall be compensated as provided in s. 925.036.

17 Section 2. Each circuit conflict committee established
18 under section 925.037, Florida Statutes, shall assess the
19 circuit's conflict representation system and determine whether
20 another conflict representation system would be more cost
21 effective, offer greater administrative control, and provide
22 representation of a higher quality in cases involving a
23 conflict of interest. In making this determination, the
24 committee shall consider other conflict representation
25 systems, including the attorney-management program established
26 in the Eighth Judicial Circuit. The committee shall also
27 determine how to improve the reliability of the information
28 and cost data that is reported for conflict cases within the
29 circuit. Each committee shall report its findings and
30 recommendations to the Legislature by February 1, 2000.

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

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