

By Senator Campbell

33-284-02

1 A bill to be entitled

2 An act relating to magistrates and masters;

3 amending ss. 26.012, 27.06, 34.01, 48.20,

4 142.09, 316.635, 373.603, 381.0012, 450.121,

5 560.306, 633.14, 648.44, 817.482, 828.122,

6 832.05, 876.42, 893.12, 901.01, 901.02, 901.07,

7 901.08, 901.09, 901.11, 901.12, 901.25, 902.15,

8 902.17, 902.20, 902.21, 903.03, 903.32, 903.34,

9 914.22, 923.01, 933.01, 933.06, 933.07, 933.10,

10 933.101, 933.13, 933.14, 939.02, 939.14,

11 941.13, 941.14, 941.15, 941.17, 941.18,

12 947.141, 948.06, 985.05, F.S., relating to

13 various court procedures; redesignating

14 "magistrates" as "trial court judges"; amending

15 ss. 56.071, 56.29, 61.1826, 64.061, 65.061,

16 69.051, 70.51, 92.142, 112.41, 112.43, 112.47,

17 162.03, 162.06, 162.09, 173.09, 173.10, 173.11,

18 173.12, 194.013, 194.034, 194.035, 206.16,

19 207.016, 320.411, 393.11, 394.467, 397.311,

20 397.681, 447.207, 447.403, 447.405, 447.407,

21 447.409, 475.011, 489.127, 489.531, 496.420,

22 501.207, 501.618, 559.936, 582.23, 631.182,

23 631.331, 633.052, 744.369, 760.11, 837.011,

24 838.014, 839.17, 916.107, 938.30, 945.43, F.S.,

25 relating to various administrative and judicial

26 proceedings; redesignating "masters" and

27 "general or special masters" as "general or

28 special magistrates"; providing an effective

29 date.

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

1 Section 1. Subsection (5) is added to section 26.012,
2 Florida Statutes, to read:

3 26.012 Jurisdiction of circuit court.--

4 (5) A circuit court is a trial court.

5 Section 2. Section 27.06, Florida Statutes, is amended
6 to read:

7 27.06 Habeas corpus and preliminary trials.--The
8 several state attorneys of this state shall represent the
9 state in all cases of habeas corpus arising in their
10 respective circuits, and shall also represent the state,
11 either in person or by assistant, in cases of preliminary
12 trials of persons charged with capital offenses in all cases
13 where the committing trial court judge ~~magistrate~~ shall have
14 given due and timely notice of the time and place of such
15 trial. Notice of the application for the writ of habeas
16 corpus shall be given to the prosecuting officer of the court
17 wherein the statute under attack is being applied, the
18 criminal law proceeding is being maintained, or the conviction
19 has occurred.

20 Section 3. Subsections (2) and (3) of section 34.01,
21 Florida Statutes, are amended, and subsection (5) is added to
22 that section, to read:

23 34.01 Jurisdiction of county court.--

24 (2) The county courts shall have jurisdiction
25 previously exercised by county judges' courts other than that
26 vested in the circuit court by s. 26.012, except that county
27 court judges may hear matters involving dissolution of
28 marriage under the simplified dissolution procedure pursuant
29 to ~~Rule 1.611(c)~~, Florida Family Law Rules of ~~Civil~~ Procedure
30 or may issue a final order for dissolution in cases where the
31 matter is uncontested, and the jurisdiction previously

1 exercised by county courts, the claims court, small claims
2 courts, small claims magistrates courts, magistrates courts,
3 justice of the peace courts, municipal courts, and courts of
4 chartered counties, including but not limited to the counties
5 referred to in ss. 9, 10, 11, and 24, Art. VIII of the State
6 Constitution of 1968 ~~1885~~.

7 (3) Judges of county courts shall also be committing
8 trial court judges ~~magistrates~~. Judges of county courts shall
9 be coroners unless otherwise provided by law or by rule of the
10 Supreme Court.

11 (4) Judges of county courts may hear all matters in
12 equity involved in any case within the jurisdictional amount
13 of the county court, except as otherwise restricted by the
14 State Constitution or the laws of Florida.

15 (5) A county court is a trial court.

16 Section 4. Section 48.20, Florida Statutes, is amended
17 to read:

18 48.20 Service of process on Sunday.--Service or
19 execution on Sunday of any writ, process, warrant, order, or
20 judgment is void and the person serving or executing, or
21 causing it to be served or executed, is liable to the party
22 aggrieved for damages for so doing as if he or she had done it
23 without any process, writ, warrant, order, or judgment. If
24 affidavit is made by the person requesting service or
25 execution that he or she has good reason to believe that any
26 person liable to have any such writ, process, warrant, order,
27 or judgment served on him or her intends to escape from this
28 state under protection of Sunday, any officer furnished with
29 an order authorizing service or execution by the trial court
30 ~~judge or magistrate of any incorporated town~~ may serve or
31 execute such writ, process, warrant, order, or judgment on

1 Sunday, and it is as valid as if it had been done on any other
2 day.

3 Section 5. Section 142.09, Florida Statutes, is
4 amended to read:

5 142.09 If defendant is not convicted or dies.--If the
6 defendant is not convicted, or the prosecution is abated by
7 the death of the defendant, or if the costs are imposed on the
8 defendant and execution against him or her is returned no
9 property found, or if a nolle prosequere be entered, in each of
10 these cases the fees of witnesses and officers arising from
11 criminal causes shall be paid by the county in the manner
12 specified in ss. 142.10-142.12; provided, that when a
13 committing trial court judge ~~magistrate~~ holds to bail or
14 commits a person to answer to a criminal charge and an
15 information is not filed or an indictment found against such
16 person, the costs and fees of such committing trial shall not
17 be paid by the county, except the costs of executing the
18 warrants.

19 Section 6. Subsection (3) of section 316.635, Florida
20 Statutes, is amended to read:

21 316.635 Courts having jurisdiction over traffic
22 violations; powers relating to custody and detention of
23 minors.--

24 (3) If a minor is taken into custody for a criminal
25 traffic offense or a violation of chapter 322 and the minor
26 does not demand to be taken before a trial court judge, or a
27 Civil Traffic Infraction Hearing Officer, who has jurisdiction
28 over the offense or violation ~~magistrate~~, the arresting
29 officer or booking officer shall immediately notify, or cause
30 to be notified, the minor's parents, guardian, or responsible
31 adult relative of the action taken. After making every

1 reasonable effort to give notice, the arresting officer or
2 booking officer may:

3 (a) Issue a notice to appear pursuant to chapter 901
4 and release the minor to a parent, guardian, responsible adult
5 relative, or other responsible adult;

6 (b) Issue a notice to appear pursuant to chapter 901
7 and release the minor pursuant to s. 903.06;

8 (c) Issue a notice to appear pursuant to chapter 901
9 and deliver the minor to an appropriate substance abuse
10 treatment or rehabilitation facility or refer the minor to an
11 appropriate medical facility as provided in s. 901.29. If the
12 minor cannot be delivered to an appropriate substance abuse
13 treatment or rehabilitation facility or medical facility, the
14 arresting officer may deliver the minor to an appropriate
15 intake office of the Department of Juvenile Justice, which
16 shall take custody of the minor and make any appropriate
17 referrals; or

18 (d) If the violation constitutes a felony and the
19 minor cannot be released pursuant to s. 903.03, transport and
20 deliver the minor to an appropriate Department of Juvenile
21 Justice intake office. Upon delivery of the minor to the
22 intake office, the department shall assume custody and proceed
23 pursuant to chapter 984 or chapter 985.

24
25 If action is not taken pursuant to paragraphs (a)-(d), the
26 minor shall be delivered to the Department of Juvenile
27 Justice, and the department shall make every reasonable effort
28 to contact the parents, guardian, or responsible adult
29 relative to take custody of the minor. If there is no parent,
30 guardian, or responsible adult relative available, the
31 department may retain custody of the minor for up to 24 hours.

1 Section 7. Section 373.603, Florida Statutes, is
2 amended to read:

3 373.603 Power to enforce.--The Department of
4 Environmental Protection or the governing board of any water
5 management district and any officer or agent thereof may
6 enforce any provision of this law or any rule or regulation
7 adopted and promulgated or order issued thereunder to the same
8 extent as any peace officer is authorized to enforce the law.
9 Any officer or agent of any such board may appear before any
10 trial court judge ~~magistrate~~ empowered to issue warrants in
11 criminal cases and make an affidavit and apply for the
12 issuance of a warrant in the manner provided by law. ~~and said~~
13 ~~magistrate~~, If such affidavit alleges ~~shall allege~~ the
14 commission of an offense, the trial court judge shall issue a
15 warrant directed to any sheriff or deputy for the arrest of
16 any offender. The provisions of this section shall apply to
17 the Florida Water Resources Act of 1972 in its entirety.

18 Section 8. Subsection (4) of section 381.0012, Florida
19 Statutes, is amended to read:

20 381.0012 Enforcement authority.--

21 (4) The department may appear before any trial court
22 judge ~~magistrate~~ empowered to issue warrants in criminal cases
23 and request the issuance of a warrant. The trial court judge
24 ~~magistrate~~ shall issue a warrant directed to any sheriff,
25 deputy, or police officer to assist in any way to carry out
26 the purpose and intent of this chapter.

27 Section 9. Subsections (3) and (4) of section 450.121,
28 Florida Statutes, are amended to read:

29 450.121 Enforcement of Child Labor Law.--

30 (3) It is the duty of any trial court judge ~~magistrate~~
31 of any court in the state to issue warrants and try cases made

1 within the limit of any municipality ~~city~~ over which such
2 magistrate has jurisdiction in connection with the violation
3 of this law.

4 (4) Grand juries shall have inquisitorial powers to
5 investigate violations of this chapter; also, trial ~~county~~
6 court judges ~~and judges of the circuit courts~~ shall specially
7 charge the grand jury, at the beginning of each term of the
8 court, to investigate violations of this chapter.

9 Section 10. Subsection (2) of section 560.306, Florida
10 Statutes, is amended to read:

11 560.306 Standards.--

12 (2) The department may deny registration if it finds
13 that the applicant, or any money transmitter-affiliated party
14 of the applicant, has been convicted of a crime involving
15 moral turpitude in any jurisdiction or of a crime which, if
16 committed in this state, would constitute a crime involving
17 moral turpitude under the laws of this state. For the purposes
18 of this part, a person shall be deemed to have been convicted
19 of a crime if such person has either pleaded guilty to or been
20 found guilty of a charge before a court or a federal
21 magistrate, or by the verdict of a jury, irrespective of the
22 pronouncement of sentence or the suspension thereof. The
23 department may take into consideration the fact that such plea
24 of guilty, or such decision, judgment, or verdict, has been
25 set aside, reversed, or otherwise abrogated by lawful judicial
26 process or that the person convicted of the crime received a
27 pardon from the jurisdiction where the conviction was entered
28 or received a certificate pursuant to any provision of law
29 which removes the disability under this part because of such
30 conviction.

31

1 Section 11. Section 633.14, Florida Statutes, is
2 amended to read:

3 633.14 Agents; powers to make arrests, conduct
4 searches and seizures, serve summonses, and carry
5 firearms.--Agents of the State Fire Marshal shall have the
6 same authority to serve summonses, make arrests, carry
7 firearms, and make searches and seizures, as the sheriff or
8 her or his deputies, in the respective counties where such
9 investigations, hearings, or inspections may be held; and
10 affidavits necessary to authorize any such arrests, searches,
11 or seizures may be made before any trial court judge
12 ~~magistrate~~ having authority under the law to issue appropriate
13 processes.

14 Section 12. Paragraph (d) of subsection (1) and
15 paragraph (c) of subsection (2) of section 648.44, Florida
16 Statutes, are amended to read:

17 648.44 Prohibitions; penalty.--

18 (1) A bail bond agent, temporary bail bond agent, or
19 runner may not:

20 (d) Pay a fee or rebate or give or promise anything of
21 value to a jailer, police officer, peace officer, or
22 committing trial court judge ~~magistrate~~ or any other person
23 who has power to arrest or to hold in custody or to any public
24 official or public employee in order to secure a settlement,
25 compromise, remission, or reduction of the amount of any bail
26 bond or estreatment thereof.

27 (2) The following persons or classes shall not be bail
28 bond agents, temporary bail bond agents, runners, or employees
29 of a bail bond agent or a bail bond business and shall not
30 directly or indirectly receive any benefits from the execution
31 of any bail bond:

1 (c) Committing trial court judges ~~magistrates~~,
2 employees of a court, or employees of the clerk of any court.

3 Section 13. Subsection (3) of section 817.482, Florida
4 Statutes, is amended to read:

5 817.482 Possessing or transferring device for theft of
6 telecommunications service; concealment of destination of
7 telecommunications service.--

8 (3) Any such instrument, apparatus, equipment, or
9 device, or plans or instructions therefor, referred to in
10 subsections (1) and (2), may be seized by court order or under
11 a search warrant of a judge ~~or magistrate~~ or incident to a
12 lawful arrest; and upon the conviction of any person for a
13 violation of any provision of this act, or s. 817.481, such
14 instrument, apparatus, equipment, device, plans, or
15 instructions either shall be destroyed as contraband by the
16 sheriff of the county in which such person was convicted or
17 turned over to the telephone company in whose territory such
18 instrument, apparatus, equipment, device, plans, or
19 instructions were seized.

20 Section 14. Subsection (5) of section 828.122, Florida
21 Statutes, is amended to read:

22 828.122 Fighting or baiting animals; offenses;
23 penalties.--

24 (5) Whenever an indictment is returned or an
25 information is filed charging a violation of s. 828.12 or of
26 this section and, in the case of an information, a trial court
27 judge ~~magistrate~~ finds probable cause that a violation has
28 occurred, the court shall order the animals seized and shall
29 provide for appropriate and humane care or disposition of the
30 animals. This provision shall not be construed as a

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1 limitation on the power to seize animals as evidence at the
2 time of arrest.

3 Section 15. Subsection (8) of section 832.05, Florida
4 Statutes, is amended to read:

5 832.05 Giving worthless checks, drafts, and debit card
6 orders; penalty; duty of drawee; evidence; costs; complaint
7 form.--

8 (8) COSTS.--When a prosecution is initiated under this
9 section before any committing trial court judge ~~magistrate~~,
10 the party applying for the warrant shall be held liable for
11 costs accruing in the event the case is dismissed for want of
12 prosecution. No costs shall be charged to the county in such
13 dismissed cases.

14 Section 16. Section 876.42, Florida Statutes, is
15 amended to read:

16 876.42 Witnesses' privileges.--No person shall be
17 excused from attending and testifying, or producing any books,
18 papers, or other documents before any court, ~~magistrate,~~
19 referee, or grand jury upon any investigation, proceeding, or
20 trial, for or relating to or concerned with a violation of any
21 section of this law or attempt to commit such violation, upon
22 the ground or for the reason that the testimony or evidence,
23 documentary or otherwise, required by the state may tend to
24 convict the person of a crime or to subject him or her to a
25 penalty or forfeiture; but no person shall be prosecuted or
26 subjected to any penalty or forfeiture for or on account of
27 any transaction, matter, or thing concerning which the person
28 may so testify or produce evidence, documentary or otherwise,
29 and no testimony so given or produced shall be received
30 against the person, upon any criminal investigation,
31 proceeding, or trial, except upon a prosecution for perjury or

1 contempt of court, based upon the giving or producing of such
2 testimony.

3 Section 17. Paragraph (a) of subsection (1) of section
4 893.12, Florida Statutes, is amended to read:

5 893.12 Contraband; seizure, forfeiture, sale.--

6 (1) All substances controlled by this chapter and all
7 listed chemicals, which substances or chemicals are handled,
8 delivered, possessed, or distributed contrary to any
9 provisions of this chapter, and all such controlled substances
10 or listed chemicals the lawful possession of which is not
11 established or the title to which cannot be ascertained, are
12 declared to be contraband, are subject to seizure and
13 confiscation by any person whose duty it is to enforce the
14 provisions of the chapter, and shall be disposed of as
15 follows:

16 (a) Except as in this section otherwise provided, the
17 court having jurisdiction shall order such controlled
18 substances or listed chemicals forfeited and destroyed. A
19 record of the place where said controlled substances or listed
20 chemicals were seized, of the kinds and quantities of
21 controlled substances or listed chemicals destroyed, and of
22 the time, place, and manner of destruction shall be kept, and
23 a return under oath reporting said destruction shall be made
24 to the court ~~or magistrate~~ by the officer who destroys them.

25 Section 18. Section 901.01, Florida Statutes, is
26 amended to read:

27 901.01 Judicial officers have to be committing
28 authority ~~magistrates~~.--Each state judicial officer is a
29 conservator of the peace and has a committing ~~magistrate with~~
30 authority to issue warrants of arrest, commit offenders to
31 jail, and recognize them to appear to answer the charge. He

1 or she may require sureties of the peace when the peace has
2 been substantially threatened or disturbed.

3 Section 19. Subsection (1) of section 901.02, Florida
4 Statutes, is amended to read:

5 901.02 When warrant of arrest to be issued.--

6 (1) A warrant may be issued for the arrest of the
7 person complained against if the trial court judge ~~magistrate~~,
8 from the examination of the complainant and other witnesses,
9 reasonably believes that the person complained against has
10 committed an offense within the trial court judge's
11 ~~magistrate's~~ jurisdiction. A warrant is issued at the time it
12 is signed by the trial court judge ~~magistrate~~.

13 Section 20. Section 901.07, Florida Statutes, is
14 amended to read:

15 901.07 Admission to bail when arrest occurs in another
16 county.--

17 (1) When an arrest by a warrant occurs in a county
18 other than the one in which the alleged offense was committed
19 and the warrant issued, if the person arrested has a right to
20 bail, the arresting officer shall inform the person of his or
21 her right and, upon request, shall take the person before a
22 trial court judge ~~magistrate~~ or other official of the same
23 county having authority to admit to bail. The official shall
24 admit the person arrested to bail for his or her appearance
25 before the trial court judge ~~magistrate~~ who issued the
26 warrant.

27 (2) If the person arrested does not have a right to
28 bail or, when informed of his or her right to bail, does not
29 furnish bail immediately, the officer who made the arrest or
30 the officer having the warrant shall take the person before
31 the trial court judge ~~magistrate~~ who issued the warrant.

1 Section 21. Section 901.08, Florida Statutes, is
2 amended to read:

3 901.08 Issue of warrant when offense triable in
4 another county.--

5 (1) When a complaint before a trial court judge
6 ~~magistrate~~ charges the commission of an offense that is
7 punishable by death or life imprisonment and is triable in
8 another county of the state, but it appears that the person
9 against whom the complaint is made is in the county where the
10 complaint is made, the same proceedings for issuing a warrant
11 shall be used as prescribed in this chapter, except that the
12 warrant shall require the person against whom the complaint is
13 made to be taken before a designated trial court judge
14 ~~magistrate~~ of the county in which the offense is triable.

15 (2) If the person arrested has a right to bail, the
16 officer making the arrest shall inform the person of his or
17 her right to bail and, on request, shall take the person
18 before a trial court judge ~~magistrate~~ or other official having
19 authority to admit to bail in the county in which the arrest
20 is made. The official shall admit the person to bail for his
21 or her appearance before the trial court judge ~~magistrate~~
22 designated in the warrant.

23 (3) If the person arrested does not have a right to
24 bail or, when informed of his or her right to bail, does not
25 furnish bail immediately, he or she shall be taken before the
26 trial court judge ~~magistrate~~ designated in the warrant.

27 Section 22. Section 901.09, Florida Statutes, is
28 amended to read:

29 901.09 When summons shall be issued.--

30 (1) When the complaint is for an offense that the
31 trial court judge ~~magistrate~~ is empowered to try summarily,

1 the trial court judge ~~magistrate~~ shall issue a summons instead
2 of a warrant, unless she or he reasonably believes that the
3 person against whom the complaint was made will not appear
4 upon a summons, in which event the trial court judge
5 ~~magistrate~~ shall issue a warrant.

6 (2) When the complaint is for a misdemeanor that the
7 trial court judge ~~magistrate~~ is not empowered to try
8 summarily, the trial court judge ~~magistrate~~ shall issue a
9 summons instead of a warrant if she or he reasonably believes
10 that the person against whom the complaint was made will
11 appear upon a summons.

12 (3) The summons shall set forth substantially the
13 nature of the offense and shall command the person against
14 whom the complaint was made to appear before the trial court
15 judge ~~magistrate~~ at a stated time and place.

16 Section 23. Section 901.11, Florida Statutes, is
17 amended to read:

18 901.11 Effect of not answering summons.--Failure to
19 appear as commanded by a summons without good cause is an
20 indirect criminal contempt of court and may be punished by a
21 fine of not more than \$100. When a person fails to appear as
22 commanded by a summons, the trial court judge ~~magistrate~~ shall
23 issue a warrant. If the trial court judge ~~magistrate~~ acquires
24 reason to believe that the person summoned will not appear as
25 commanded after issuing a summons, the trial court judge
26 ~~magistrate~~ may issue a warrant.

27 Section 24. Section 901.12, Florida Statutes, is
28 amended to read:

29 901.12 Summons against corporation.--When a complaint
30 of an offense is made against a corporation, the trial court
31 judge ~~magistrate~~ shall issue a summons that shall set forth

1 substantially the nature of the offense and command the
2 corporation to appear before the trial court judge ~~magistrate~~
3 at a stated time and place.

4 Section 25. Subsection (3) of section 901.25, Florida
5 Statutes, is amended to read:

6 901.25 Fresh pursuit; arrest outside jurisdiction.--

7 (3) If an arrest is made in this state by an officer
8 outside the county within which his or her jurisdiction lies,
9 the officer shall immediately notify the officer in charge of
10 the jurisdiction in which the arrest is made. Such officer in
11 charge of the jurisdiction shall, along with the officer
12 making the arrest, take the person so arrested before a trial
13 ~~county court judge or other committing magistrate~~ of the
14 county in which the arrest was made without unnecessary delay.

15 Section 26. Section 902.15, Florida Statutes, is
16 amended to read:

17 902.15 Undertaking by witness.--When a defendant is
18 held to answer on a charge for a crime punishable by death or
19 life imprisonment, the trial court judge ~~magistrate~~ at the
20 preliminary hearing may require each material witness to enter
21 into a written recognizance to appear at the trial or forfeit
22 a sum fixed by the trial court judge ~~magistrate~~. Additional
23 security may be required in the discretion of the trial court
24 judge ~~magistrate~~.

25 Section 27. Subsections (1), (2), and (3) of section
26 902.17, Florida Statutes, are amended to read:

27 902.17 Procedure when witness does not give
28 security.--

29 (1) If a witness required to enter into a recognizance
30 to appear refuses to comply with the order, the trial court
31

1 judge ~~magistrate~~ shall commit the witness to custody until she
2 or he complies or she or he is legally discharged.

3 (2) If the trial court judge ~~magistrate~~ requires a
4 witness to give security for her or his appearance and the
5 witness is unable to give the security, the witness may apply
6 to the court having jurisdiction to try the defendant for a
7 reduction of the security.

8 (3) If it appears from examination on oath of the
9 witness or any other person that the witness is unable to give
10 security, the trial court judge ~~magistrate~~ or the court having
11 jurisdiction to try the defendant shall make an order finding
12 that fact, and the witness shall be detained pending
13 application for her or his conditional examination. Within 3
14 days after ~~from~~ the entry of the order, the witness shall be
15 conditionally examined on application of the state or the
16 defendant. The examination shall be by question and answer in
17 the presence of the other party and counsel, and shall be
18 transcribed by a court reporter or stenographer selected by
19 the parties. At the completion of the examination the witness
20 shall be discharged. The deposition of the witness may be
21 introduced in evidence at the trial by the defendant, or, if
22 the prosecuting attorney and the defendant and the defendant's
23 counsel agree, it may be admitted in evidence by stipulation.
24 The deposition shall not be admitted on behalf of the state
25 without the consent of the defendant.

26 Section 28. Section 902.20, Florida Statutes, is
27 amended to read:

28 902.20 Contempts before committing trial court judge
29 ~~magistrate~~.--A committing trial court judge ~~magistrate~~ holding
30 a preliminary hearing shall have the same power to punish for
31

1 | contempts that she or he has while presiding at the trial of
2 | criminal cases.

3 | Section 29. Section 902.21, Florida Statutes, is
4 | amended to read:

5 | 902.21 Commitment to jail in another county.--If a
6 | person is committed in a county where there is no jail, the
7 | committing trial court judge ~~magistrate~~ shall direct the
8 | sheriff to deliver the accused to a jail in another county.

9 | Section 30. Subsection (1) of section 903.03, Florida
10 | Statutes, is amended to read:

11 | 903.03 Jurisdiction of trial court to admit to bail;
12 | duties and responsibilities of Department of Corrections.--

13 | (1) After a person is held to answer by a trial court
14 | judge ~~magistrate~~, the court having jurisdiction to try the
15 | defendant shall, before indictment, affidavit, or information
16 | is filed, have jurisdiction to hear and decide all preliminary
17 | motions regarding bail and production or impounding of all
18 | articles, writings, moneys, or other exhibits expected to be
19 | used at the trial by either the state or the defendant.

20 | Section 31. Subsection (2) of section 903.32, Florida
21 | Statutes, is amended to read:

22 | 903.32 Defects in bond.--

23 | (2) If no day, or an impossible day, is stated in a
24 | bond for the defendant's appearance before a trial court judge
25 | ~~magistrate~~ for a hearing, the defendant shall be bound to
26 | appear 10 days after receipt of notice to appear by the
27 | defendant, the defendant's counsel, or any surety on the
28 | undertaking. If no day, or an impossible day, is stated in a
29 | bond for the defendant's appearance for trial, the defendant
30 | shall be bound to appear on the first day of the next term of
31 |

1 court that will commence more than 3 days after the
2 undertaking is given.

3 Section 32. Section 903.34, Florida Statutes, is
4 amended to read:

5 903.34 Who may admit to bail.--In criminal actions
6 instituted or pending in any state court, bonds given by
7 defendants before trial until appeal shall be approved by a
8 committing trial court judge ~~magistrate~~ or the sheriff. Appeal
9 bonds shall be approved as provided in s. 924.15.

10 Section 33. Subsection (4) of section 914.22, Florida
11 Statutes, is amended to read:

12 914.22 Tampering with a witness, victim, or
13 informant.--

14 (4) In a prosecution for an offense under this
15 section, no state of mind need be proved with respect to the
16 circumstance:

17 (a) That the official proceeding before a judge,
18 court, ~~magistrate~~, grand jury, or government agency is before
19 a judge or court of the state, a state or local grand jury, or
20 a state agency; or

21 (b) That the judge is a judge of the state or that the
22 law enforcement officer is an officer or employee of the state
23 or a person authorized to act for or on behalf of the state or
24 serving the state as an adviser or consultant.

25 Section 34. Section 923.01, Florida Statutes, is
26 amended to read:

27 923.01 Criminal report.--Each committing trial court
28 judge ~~magistrate~~ at the time commitment papers are sent by her
29 or him to the proper trial court, and the sheriff when an
30 arrest is made, other than on a capias, shall transmit to the
31

1 prosecuting attorney of the trial court having jurisdiction, a
2 report in the following form:

3

4

CRIMINAL REPORT

5 Date: Name and address of defendant: Age: If
6 under 18, give name and address of parent, next friend, or
7 guardian: Name of offense, such as murder, assault,
8 robbery, etc.: Date and place where committed: Value
9 of property stolen: Kind of property stolen: Kind of
10 building robbed: Name and address of owner of property
11 stolen or building robbed: Name and address of occupant
12 of building robbed: Name of party assaulted or murdered:
13 Weapon used in assault or murder: Exhibits taken at
14 scene of crime or from defendant: Name of custodian of
15 such exhibits: Location of building or place where
16 offense committed: Previous prison record of defendant:
17 Has defendant been arrested: Does defendant desire
18 to plead guilty: Names and addresses of state witnesses:
19 Name of defendant's lawyer: If defendant is released
20 on bond, names and addresses of sureties: Brief statement
21 of facts: Name of committing trial court judge
22 ~~magistrate~~: If additional space required, use reverse
23 side of this sheet.

24

...(Signature of party making this report.)...

25

Section 35. Section 933.01, Florida Statutes, is
26 amended to read:

27

28

29

30

31

933.01 Persons competent to issue search warrant.--A
search warrant authorized by law may be issued by any judge,
including the ~~judge of any circuit court of this state or~~
~~county court judge, or committing~~ judge of the trial court

1 ~~magistrate~~ having jurisdiction where the place, vehicle, or
2 thing to be searched may be.

3 Section 36. Section 933.06, Florida Statutes, is
4 amended to read:

5 933.06 Sworn application required before
6 issuance.--The judge ~~or magistrate~~ must, before issuing the
7 warrant, have the application of some person for said warrant
8 duly sworn to and subscribed, and may receive further
9 testimony from witnesses or supporting affidavits, or
10 depositions in writing, to support the application. The
11 affidavit and further proof, if same be had or required, must
12 set forth the facts tending to establish the grounds of the
13 application or probable cause for believing that they exist.

14 Section 37. Section 933.07, Florida Statutes, is
15 amended to read:

16 933.07 Issuance of search warrants.--The judge, upon
17 examination of the application and proofs submitted, if
18 satisfied that probable cause exists for the issuing of the
19 search warrant, shall thereupon issue a search warrant signed
20 by him or her with his or her name of office, to any sheriff
21 and the sheriff's deputies or any police officer or other
22 person authorized by law to execute process, commanding the
23 officer or person forthwith to search the property described
24 in the warrant or the person named, for the property
25 specified, and to bring the property and any person arrested
26 in connection therewith before the judge ~~magistrate~~ or some
27 other court having jurisdiction of the offense.

28 Section 38. Section 933.10, Florida Statutes, is
29 amended to read:

30 933.10 Execution of search warrant during day or
31 night.--A search warrant issued under ~~the provisions of this~~

1 chapter may, if expressly authorized in such warrant by the
2 judge ~~or magistrate issuing the same~~, be executed by being
3 served either in the daytime or in the nighttime, as the
4 exigencies of the occasion may demand or require.

5 Section 39. Section 933.101, Florida Statutes, is
6 amended to read:

7 933.101 Service on Sunday.--A search warrant may be
8 executed by being served on Sunday, if expressly authorized in
9 such warrant by the judge ~~or magistrate issuing the same~~.

10 Section 40. Section 933.13, Florida Statutes, is
11 amended to read:

12 933.13 Copy of inventory shall be delivered upon
13 request.--The judge ~~or magistrate~~ to whom the warrant is
14 returned, upon the request of any claimant or any person from
15 whom said property is taken, or the officer who executed the
16 search warrant, shall deliver to said applicant a true copy of
17 the inventory of the property mentioned in the return on said
18 warrant.

19 Section 41. Subsections (1), (3), and (4) of section
20 933.14, Florida Statutes, are amended to read:

21 933.14 Return of property taken under search
22 warrant.--

23 (1) If it appears to the ~~magistrate or~~ judge before
24 whom the warrant is returned that the property or papers taken
25 are not the same as that described in the warrant, or that
26 there is no probable cause for believing the existence of the
27 grounds upon which the warrant was issued, or if it appears to
28 the judge ~~magistrate~~ before whom any property is returned that
29 the property was secured by an "unreasonable" search, the
30 judge ~~or magistrate~~ may order a return of the property taken;
31 provided, however, that in no instance shall contraband such

1 as slot machines, gambling tables, lottery tickets, tally
2 sheets, rundown sheets, or other gambling devices,
3 paraphernalia and equipment, or narcotic drugs, obscene prints
4 and literature be returned to anyone claiming an interest
5 therein, it being the specific intent of the Legislature that
6 no one has any property rights subject to be protected by any
7 constitutional provision in such contraband; provided,
8 further, that the claimant of said contraband may upon sworn
9 petition and proof submitted by him or her in the circuit
10 court of the county where seized, show that said contraband
11 articles so seized were held, used or possessed in a lawful
12 manner, for a lawful purpose, and in a lawful place, the
13 burden of proof in all cases being upon the claimant. The
14 sworn affidavit or complaint upon which the search warrant was
15 issued or the testimony of the officers showing probable cause
16 to search without a warrant or incident to a legal arrest, and
17 the finding of such slot machines, gambling tables, lottery
18 tickets, tally sheets, rundown sheets, scratch sheets, or
19 other gambling devices, paraphernalia, and equipment,
20 including money used in gambling or in furtherance of
21 gambling, or narcotic drugs, obscene prints and literature, or
22 any of them, shall constitute prima facie evidence of the
23 illegal possession of such contraband and the burden shall be
24 upon the claimant for the return thereof, to show that such
25 contraband was lawfully acquired, possessed, held, and used.

26 (3) No pistol or firearm taken by any officer with a
27 search warrant or without a search warrant upon a view by the
28 officer of a breach of the peace shall be returned except
29 pursuant to an order of a trial ~~circuit judge or a county~~
30 court judge.

31

1 (4) If no cause is shown for the return of any
2 property seized or taken under a search warrant, the judge ~~or~~
3 ~~magistrate~~ shall order that the same be impounded for use as
4 evidence at any trial of any criminal or penal cause growing
5 out of the having or possession of said property, but
6 perishable property held or possessed in violation of law may
7 be sold where the same is not prohibited, as may be directed
8 by the court, or returned to the person from whom taken. The
9 judge ~~or magistrate~~ to whom said search warrant is returned
10 shall file the same with the inventory and sworn return in the
11 proper office, and if the original affidavit and proofs upon
12 which the warrant was issued are in his or her possession, he
13 or she shall apply to the officer having the same and the
14 officer shall transmit and deliver all of the papers, proofs,
15 and certificates to the proper office where the proceedings
16 are lodged.

17 Section 42. Section 939.02, Florida Statutes, is
18 amended to read:

19 939.02 Costs before committing trial court judge
20 ~~magistrate~~.--All costs accruing before a committing trial
21 court judge ~~magistrate~~ shall be taxed against the defendant on
22 conviction or estreat of recognizance.

23 Section 43. Section 939.14, Florida Statutes, is
24 amended to read:

25 939.14 County not to pay costs in cases where
26 information is not filed or indictment found.--When a
27 committing trial court judge ~~magistrate~~ holds to bail or
28 commits any person to answer a criminal charge in a county
29 court or a circuit court, and an information is not filed nor
30 an indictment found against such person, the costs of such
31

1 committing trial shall not be paid by the county, except the
2 costs for executing the warrant.

3 Section 44. Section 941.13, Florida Statutes, is
4 amended to read:

5 941.13 Arrest prior to requisition.--Whenever any
6 person within this state shall be charged on the oath of any
7 credible person before any judge ~~or magistrate~~ of this state
8 with the commission of any crime in any other state, and, and,
9 except in cases arising under s. 941.06, with having fled from
10 justice or with having been convicted of a crime in that state
11 and having escaped from confinement, or having broken the
12 terms of his or her bail, probation, or parole, or whenever
13 complaint shall have been made before any judge ~~or magistrate~~
14 in this state setting forth on the affidavit of any credible
15 person in another state that a crime has been committed in
16 such other state and that the accused has been charged in such
17 state with the commission of the crime, and, except in cases
18 arising under s. 941.06, has fled from justice, or with having
19 been convicted of a crime in that state and having escaped
20 from confinement, or having broken the terms of his or her
21 bail, probation, or parole, and is believed to be in this
22 state, the judge ~~or magistrate~~ shall issue a warrant directed
23 to any peace officer commanding him or her to apprehend the
24 person named therein, wherever the person may be found in this
25 state, and to bring the person before the same or any other
26 judge, ~~magistrate,~~ or court who or which may be available in,
27 or convenient of, access to the place where the arrest may be
28 made, to answer the charge or complaint and affidavit, and a
29 certified copy of the sworn charge or complaint and affidavit
30 upon which the warrant is issued shall be attached to the
31 warrant.

1 Section 45. Section 941.14, Florida Statutes, is
2 amended to read:

3 941.14 Arrest without a warrant.--The arrest of a
4 person may be lawfully made also by any peace officer or a
5 private person, without a warrant upon reasonable information
6 that the accused stands charged in the courts of a state with
7 a crime punishable by death or imprisonment for a term
8 exceeding 1 year, but when so arrested the accused must be
9 taken before a judge ~~or magistrate~~ with all practicable speed
10 and complaint must be made against the accused under oath
11 setting forth the ground for the arrest as in the preceding
12 section; and thereafter his or her answer shall be heard as if
13 the accused had been arrested on a warrant.

14 Section 46. Section 941.15, Florida Statutes, is
15 amended to read:

16 941.15 Commitment to await requisition; bail.--If from
17 the examination before the judge ~~or magistrate~~ it appears that
18 the person held is the person charged with having committed
19 the crime alleged and, except in cases arising under s.
20 941.06, that the person has fled from justice, the judge ~~or~~
21 ~~magistrate~~ must, by a warrant reciting the accusation, commit
22 the person to the county jail for such a time not exceeding 30
23 days and specified in the warrant, as will enable the arrest
24 of the accused to be made under a warrant of the Governor on a
25 requisition of the executive authority of the state having
26 jurisdiction of the offense, unless the accused gives ~~give~~
27 bail as provided in s. 941.16 ~~the next section~~, or until the
28 accused shall be legally discharged.

29 Section 47. Section 941.17, Florida Statutes, is
30 amended to read:

31

1 941.17 Extension of time of commitment,
2 adjournment.--If the accused is not arrested under warrant of
3 the Governor by the expiration of the time specified in the
4 warrant or bond, a judge ~~or magistrate~~ may discharge the
5 accused or may recommit him or her for a further period not to
6 exceed 60 days, or a judge ~~or magistrate~~ judge may again take
7 bail for his or her appearance and surrender, as provided in
8 s. 941.16, but within a period not to exceed 60 days after the
9 date of such new bond.

10 Section 48. Section 941.18, Florida Statutes, is
11 amended to read:

12 941.18 Forfeiture of bail.--If the prisoner is
13 admitted to bail, and fails to appear and surrender himself or
14 herself according to the conditions of his or her bond, the
15 judge, ~~or magistrate by proper order~~, shall declare the bond
16 forfeited and order his or her immediate arrest without
17 warrant if he or she is ~~be~~ within this state. Recovery may be
18 had on such bond in the name of the state as in the case of
19 other bonds given by the accused in criminal proceedings
20 within this state.

21 Section 49. Subsection (2) of section 947.141, Florida
22 Statutes, is amended to read:

23 947.141 Violations of conditional release, control
24 release, or conditional medical release or addiction-recovery
25 supervision.--

26 (2) Upon the arrest on a felony charge of an offender
27 who is on release supervision under s. 947.1405, s. 947.146,
28 s. 947.149, or s. 944.4731, the offender must be detained
29 without bond until the initial appearance of the offender at
30 which a judicial determination of probable cause is made. If
31 the trial court judge ~~magistrate~~ determines that there was no

1 probable cause for the arrest, the offender may be released.
2 If the trial court judge ~~magistrate~~ determines that there was
3 probable cause for the arrest, such determination also
4 constitutes reasonable grounds to believe that the offender
5 violated the conditions of the release. Within 24 hours after
6 the trial court judge's ~~magistrate's~~ finding of probable
7 cause, the detention facility administrator or designee shall
8 notify the commission and the department of the finding and
9 transmit to each a facsimile copy of the probable cause
10 affidavit or the sworn offense report upon which the trial
11 court judge's ~~magistrate's~~ probable cause determination is
12 based. The offender must continue to be detained without bond
13 for a period not exceeding 72 hours excluding weekends and
14 holidays after the date of the probable cause determination,
15 pending a decision by the commission whether to issue a
16 warrant charging the offender with violation of the conditions
17 of release. Upon the issuance of the commission's warrant, the
18 offender must continue to be held in custody pending a
19 revocation hearing held in accordance with this section.

20 Section 50. Subsection (1) of section 948.06, Florida
21 Statutes, is amended to read:

22 948.06 Violation of probation or community control;
23 revocation; modification; continuance; failure to pay
24 restitution or cost of supervision.--

25 (1) Whenever within the period of probation or
26 community control there are reasonable grounds to believe that
27 a probationer or offender in community control has violated
28 his or her probation or community control in a material
29 respect, any law enforcement officer who is aware of the
30 probationary or community control status of the probationer or
31 offender in community control or any parole or probation

1 supervisor may arrest or request any county or municipal law
2 enforcement officer to arrest such probationer or offender
3 without warrant wherever found and forthwith return him or her
4 to the court granting such probation or community control. Any
5 committing trial court judge ~~magistrate~~ may issue a warrant,
6 upon the facts being made known to him or her by affidavit of
7 one having knowledge of such facts, for the arrest of the
8 probationer or offender, returnable forthwith before the court
9 granting such probation or community control. Any parole or
10 probation supervisor, any officer authorized to serve criminal
11 process, or any peace officer of this state is authorized to
12 serve and execute such warrant. Upon the filing of an
13 affidavit alleging a violation of probation or community
14 control and following issuance of a warrant under s. 901.02,
15 the probationary period is tolled until the court enters a
16 ruling on the violation. Notwithstanding the tolling of
17 probation as provided in this subsection, the court shall
18 retain jurisdiction over the offender for any violation of the
19 conditions of probation or community control that is alleged
20 to have occurred during the tolling period. The probation
21 officer is permitted to continue to supervise any offender who
22 remains available to the officer for supervision until the
23 supervision expires pursuant to the order of probation or
24 community control or until the court revokes or terminates the
25 probation or community control, whichever comes first. The
26 court, upon the probationer or offender being brought before
27 it, shall advise him or her of such charge of violation and,
28 if such charge is admitted to be true, may forthwith revoke,
29 modify, or continue the probation or community control or
30 place the probationer into a community control program. If
31 probation or community control is revoked, the court shall

1 | adjudge the probationer or offender guilty of the offense
2 | charged and proven or admitted, unless he or she has
3 | previously been adjudged guilty, and impose any sentence which
4 | it might have originally imposed before placing the
5 | probationer on probation or the offender into community
6 | control. If such violation of probation or community control
7 | is not admitted by the probationer or offender, the court may
8 | commit him or her or release him or her with or without bail
9 | to await further hearing, or it may dismiss the charge of
10 | probation or community control violation. If such charge is
11 | not at that time admitted by the probationer or offender and
12 | if it is not dismissed, the court, as soon as may be
13 | practicable, shall give the probationer or offender an
14 | opportunity to be fully heard on his or her behalf in person
15 | or by counsel. After such hearing, the court may revoke,
16 | modify, or continue the probation or community control or
17 | place the probationer into community control. If such
18 | probation or community control is revoked, the court shall
19 | adjudge the probationer or offender guilty of the offense
20 | charged and proven or admitted, unless he or she has
21 | previously been adjudged guilty, and impose any sentence which
22 | it might have originally imposed before placing the
23 | probationer or offender on probation or into community
24 | control. Notwithstanding s. 775.082, when a period of
25 | probation or community control has been tolled, upon
26 | revocation or modification of the probation or community
27 | control, the court may impose a sanction with a term that when
28 | combined with the amount of supervision served and tolled,
29 | exceeds the term permissible pursuant to s. 775.082 for a term
30 | up to the amount of the tolled period supervision. If the
31 | court dismisses an affidavit alleging a violation of probation

1 or community control, the offender's probation or community
2 control shall continue as previously imposed, and the offender
3 shall receive credit for all tolled time against his or her
4 term of probation or community control.

5 Section 51. Paragraph (b) of subsection (4) of section
6 985.05, Florida Statutes, is amended to read:

7 985.05 Court records.--

8 (4) A court record of proceedings under this part is
9 not admissible in evidence in any other civil or criminal
10 proceeding, except that:

11 (b) Orders binding an adult over for trial on a
12 criminal charge, made by the committing trial judge ~~as a~~
13 ~~committing magistrate~~, are admissible in evidence in the court
14 to which the adult is bound over.

15 Section 52. Section 56.071, Florida Statutes, is
16 amended to read:

17 56.071 Executions on equities of redemption; discovery
18 of value.--On motion made by the party causing a levy to be
19 made on an equity of redemption, the court from which the
20 execution issued shall order the mortgagor, mortgagee, and all
21 other persons interested in the mortgaged property levied on
22 to appear and be examined about the amount remaining due on
23 the mortgage, the amount that has been paid, the party to whom
24 that amount has been paid, and the date when that amount was
25 paid to whom and when paid so that the value of the equity of
26 redemption may be ascertained before the property ~~it~~ is sold.
27 The court may appoint a general or special magistrate ~~master~~
28 to conduct the examination. This section shall also apply to
29 the interest of and personal property in possession of a
30 vendee under a retained title contract or conditional sales
31 contract.

1 Section 53. Subsections (2), (7), and (10) of section
2 56.29, Florida Statutes, are amended to read:

3 56.29 Proceedings supplementary.--

4 (2) On such plaintiff's motion the court shall require
5 the defendant in execution to appear before it or a general or
6 special magistrate ~~master~~ at a time and place specified by the
7 order in the county of the defendant's residence to be
8 examined concerning his or her property.

9 (7) At any time the court may refer the proceeding to
10 a general or special magistrate ~~master~~ who may be directed to
11 report findings of law or fact, or both. The master has all
12 the powers thereof, including the power to issue subpoena, and
13 shall be paid the fees provided by law.

14 (10) Any person failing to obey any order issued under
15 this section by a judge or general or special magistrate
16 ~~master~~ or failing to attend in response to a subpoena served
17 on him or her may be held in contempt.

18 Section 54. Subsection (4) of section 61.1826, Florida
19 Statutes, is amended to read:

20 61.1826 Procurement of services for State Disbursement
21 Unit and the non-Title IV-D component of the State Case
22 Registry; contracts and cooperative agreements; penalties;
23 withholding payment.--

24 (4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.--The
25 contract between the Florida Association of Court Clerks and
26 the department, and cooperative agreements entered into by the
27 depositories and the department, must contain, but are not
28 limited to, the following terms:

29 (a) The initial term of the contract and cooperative
30 agreements is for 5 years. The subsequent term of the contract
31 and cooperative agreements is for 3 years, with the option of

1 two 1-year renewal periods, at the sole discretion of the
2 department.

3 (b) The duties and responsibilities of the Florida
4 Association of Court Clerks, the depositories, and the
5 department.

6 (c) Under s. 287.058(1)(a), all providers and
7 subcontractors shall submit to the department directly, or
8 through the Florida Association of Court Clerks, a report of
9 monthly expenditures in a format prescribed by the department
10 and in sufficient detail for a proper preaudit and postaudit
11 thereof.

12 (d) All providers and subcontractors shall submit to
13 the department directly, or through the Florida Association of
14 Court Clerks, management reports in a format prescribed by the
15 department.

16 (e) All subcontractors shall comply with chapter 280,
17 as may be required.

18 (f) Federal financial participation for eligible Title
19 IV-D expenditures incurred by the Florida Association of Court
20 Clerks and the depositories shall be at the maximum level
21 permitted by federal law for expenditures incurred for the
22 provision of services in support of child support enforcement
23 in accordance with 45 C.F.R. part 74 and Federal Office of
24 Management and Budget Circulars A-87 and A-122 and based on an
25 annual cost allocation study of each depository. The
26 depositories shall submit directly, or through the Florida
27 Association of Court Clerks, claims for Title IV-D
28 expenditures monthly to the department in a standardized
29 format as prescribed by the department. The Florida
30 Association of Court Clerks shall contract with a certified
31 public accounting firm, selected by the Florida Association of

1 Court Clerks and the department, to audit and certify
2 quarterly to the department all claims for expenditures
3 submitted by the depositories for Title IV-D reimbursement.

4 (g) Upon termination of the contracts between the
5 department and the Florida Association of Court Clerks or the
6 depositories, the Florida Association of Court Clerks, its
7 agents, and the depositories shall assist the department in
8 making an orderly transition to a private vendor.

9 (h) Interest on late payment by the department shall
10 be in accordance with s. 215.422.

11

12 If either the department or the Florida Association of Court
13 Clerks objects to a term of the standard cooperative agreement
14 or contract specified in subsections (2) and (3), the disputed
15 term or terms shall be presented jointly by the parties to the
16 Attorney General or the Attorney General's designee, who shall
17 act as special magistrate ~~master~~. The special magistrate
18 ~~master~~ shall resolve the dispute in writing within 10 days.
19 The resolution of a dispute by the special magistrate ~~master~~
20 is binding on the department and the Florida Association of
21 Court Clerks.

22 Section 55. Section 64.061, Florida Statutes, is
23 amended to read:

24 64.061 Partition of property; commissioners; special
25 magistrate ~~master~~.--

26 (1) APPOINTMENT AND REMOVAL.--When a judgment of
27 partition is made, the court shall appoint three suitable
28 persons as commissioners to make the partition. They shall be
29 selected by the court unless agreed on by the parties. They
30 may be removed by the court for good cause and others
31 appointed in their places.

1 (2) POWERS, DUTIES, COMPENSATION AND REPORT OF
2 COMMISSIONERS.--The commissioners shall be sworn to execute
3 the trust imposed in them faithfully and impartially before
4 entering on their duties; have power to employ a surveyor, if
5 necessary, for the purpose of making partition; be allowed
6 such sum as is reasonable for their services; to make
7 partition of the lands in question according to the court's
8 order and report it in writing to the court without delay.

9 (3) EXCEPTIONS TO REPORT AND FINAL JUDGMENT.--Any
10 party may file objections to the report of the commissioners
11 within 10 days after it is served. If no objections are filed
12 or if the court is satisfied on hearing any such objections
13 that they are not well-founded, the report shall be confirmed,
14 and a final judgment entered vesting in the parties the title
15 to the parcels of the lands allotted to them respectively, and
16 giving each of them the possession of and quieting title to
17 their respective shares as against the other parties to the
18 action or those claiming through or under them.

19 (4) APPOINTMENT OF SPECIAL MAGISTRATE ~~MASTER~~ WHERE
20 PROPERTY NOT SUBJECT TO PARTITION.--On an uncontested
21 allegation in a pleading that the property sought to be
22 partitioned is indivisible and is not subject to partition
23 without prejudice to the owners of it or if a judgment of
24 partition is entered and the court is satisfied that the
25 allegation is correct, on motion of any party and notice to
26 the others the court may appoint a special magistrate ~~master~~
27 or the clerk to make sale of the property either at private
28 sale or as provided by s. 64.071.

29 Section 56. Subsection (5) of section 65.061, Florida
30 Statutes, is amended to read:

31 65.061 Quieting title; additional remedy.--

1 (5) RECORDING FINAL JUDGMENTS.--All final judgments
2 may be recorded in the county or counties in which the land is
3 situated and operate to vest title in like manner as though a
4 conveyance were executed by a special magistrate ~~master~~ or
5 commissioner.

6 Section 57. Section 69.051, Florida Statutes, is
7 amended to read:

8 69.051 General and special magistrates ~~Masters in~~
9 ~~chancery~~; compensation.--General and special magistrates
10 appointed by the court ~~Masters in chancery~~ shall be allowed
11 such compensation for any services as the court deems
12 reasonable, including time consumed in legal research required
13 in preparing and summarizing their findings of fact and law.

14 Section 58. Section 70.51, Florida Statutes, is
15 amended to read:

16 70.51 Land use and environmental dispute resolution.--

17 (1) This section may be cited as the "Florida Land Use
18 and Environmental Dispute Resolution Act."

19 (2) As used in this section, the term:

20 (a) "Development order" means any order, or notice of
21 proposed state or regional governmental agency action, which
22 is or will have the effect of granting, denying, or granting
23 with conditions an application for a development permit, and
24 includes the rezoning of a specific parcel. Actions by the
25 state or a local government on comprehensive plan amendments
26 are not development orders.

27 (b) "Development permit" means any building permit,
28 zoning permit, subdivision approval, certification, special
29 exception, variance, or any other similar action of local
30 government, as well as any permit authorized to be issued
31 under state law by state, regional, or local government which

1 has the effect of authorizing the development of real property
2 including, but not limited to, programs implementing chapters
3 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.

4 (c) "Special magistrate ~~master~~" means a person
5 selected by the parties to perform the duties prescribed in
6 this section. The special magistrate ~~master~~ must be a
7 resident of the state and possess experience and expertise in
8 mediation and at least one of the following disciplines and a
9 working familiarity with the others: land use and
10 environmental permitting, land planning, land economics, local
11 and state government organization and powers, and the law
12 governing the same.

13 (d) "Owner" means a person with a legal or equitable
14 interest in real property who filed an application for a
15 development permit for the property at the state, regional, or
16 local level and who received a development order, or who holds
17 legal title to real property that is subject to an enforcement
18 action of a governmental entity.

19 (e) "Proposed use of the property" means the proposal
20 filed by the owner to develop his or her real property.

21 (f) "Governmental entity" includes an agency of the
22 state, a regional or a local government created by the State
23 Constitution or by general or special act, any county or
24 municipality, or any other entity that independently exercises
25 governmental authority. The term does not include the United
26 States or any of its agencies.

27 (g) "Land" or "real property" means land and includes
28 any appurtenances and improvements to the land, including any
29 other relevant real property in which the owner had a relevant
30 interest.

31

1 (3) Any owner who believes that a development order,
2 either separately or in conjunction with other development
3 orders, or an enforcement action of a governmental entity, is
4 unreasonable or unfairly burdens the use of the owner's real
5 property, may apply within 30 days after receipt of the order
6 or notice of the governmental action for relief under this
7 section.

8 (4) To initiate a proceeding under this section, an
9 owner must file a request for relief with the elected or
10 appointed head of the governmental entity that issued the
11 development order or orders, or that initiated the enforcement
12 action. The head of the governmental entity may not charge
13 the owner for the request for relief and must forward the
14 request for relief to the special magistrate ~~master~~ who is
15 mutually agreed upon by the owner and the governmental entity
16 within 10 days after receipt of the request.

17 (5) The governmental entity with whom a request has
18 been filed shall also serve a copy of the request for relief
19 by United States mail or by hand delivery to:

20 (a) Owners of real property contiguous to the owner's
21 property at the address on the latest county tax roll.

22 (b) Any substantially affected party who submitted
23 oral or written testimony, sworn or unsworn, of a substantive
24 nature which stated with particularity objections to or
25 support for any development order at issue or enforcement
26 action at issue. Notice under this paragraph is required only
27 if that party indicated a desire to receive notice of any
28 subsequent special magistrate ~~master~~ proceedings occurring on
29 the development order or enforcement action. Each governmental
30 entity must maintain in its files relating to particular
31 development orders a mailing list of persons who have

1 presented oral or written testimony and who have requested
2 notice.

3 (6) The request for relief must contain:

4 (a) A brief statement of the owner's proposed use of
5 the property.

6 (b) A summary of the development order or description
7 of the enforcement action. A copy of the development order or
8 the documentation of an enforcement action at issue must be
9 attached to the request.

10 (c) A brief statement of the impact of the development
11 order or enforcement action on the ability of the owner to
12 achieve the proposed use of the property.

13 (d) A certificate of service showing the parties,
14 including the governmental entity, served.

15 (7) The special magistrate ~~master~~ may require other
16 information in the interest of gaining a complete
17 understanding of the request for relief.

18 (8) The special magistrate ~~master~~ may conduct a
19 hearing on whether the request for relief should be dismissed
20 for failing to include the information required in subsection
21 (6). If the special magistrate ~~master~~ dismisses the case, the
22 special magistrate ~~master~~ shall allow the owner to amend the
23 request and refile. Failure to file an adequate amended
24 request within the time specified shall result in a dismissal
25 with prejudice as to this proceeding.

26 (9) By requesting relief under this section, the owner
27 consents to grant the special magistrate ~~master~~ and the
28 parties reasonable access to the real property with advance
29 notice at a time and in a manner acceptable to the owner of
30 the real property.

31

1 (10)(a) Before initiating a special magistrate ~~master~~
2 proceeding to review a local development order or local
3 enforcement action, the owner must exhaust all nonjudicial
4 local government administrative appeals if the appeals take no
5 longer than 4 months. Once nonjudicial local administrative
6 appeals are exhausted and the development order or enforcement
7 action is final, or within 4 months after issuance of the
8 development order or notice of the enforcement action if the
9 owner has pursued local administrative appeals even if the
10 appeals have not been concluded, the owner may initiate a
11 proceeding under this section. Initiation of a proceeding
12 tolls the time for seeking judicial review of a local
13 government development order or enforcement action until the
14 special magistrate's ~~master's~~ recommendation is acted upon by
15 the local government. Election by the owner to file for
16 judicial review of a local government development order or
17 enforcement action prior to initiating a proceeding under this
18 section waives any right to a special magistrate ~~master~~
19 proceeding.

20 (b) If an owner requests ~~special-master~~ relief under
21 this section from a development order or enforcement action
22 issued by a state or regional agency, the time for challenging
23 agency action under ss. 120.569 and 120.57 is tolled. If an
24 owner chooses to bring a proceeding under ss. 120.569 and
25 120.57 before initiating a ~~special-master~~ proceeding under
26 this section, then the owner waives any right to a special
27 magistrate ~~master~~ proceeding unless all parties consent to
28 proceeding to mediation.

29 (11) The initial party to the proceeding is the
30 governmental entity that issues the development order to the
31 owner or that is taking the enforcement action. In those

1 instances when the development order or enforcement action is
2 the culmination of a process involving more than one
3 governmental entity or when a complete resolution of all
4 relevant issues would require the active participation of more
5 than one governmental entity, the special magistrate ~~master~~
6 may, upon application of a party, join those governmental
7 entities as parties to the proceeding if it will assist in
8 effecting the purposes of this section, and those governmental
9 entities so joined shall actively participate in the
10 procedure.

11 (12) Within 21 days after receipt of the request for
12 relief, any owner of land contiguous to the owner's property
13 and any substantially affected person who submitted oral or
14 written testimony, sworn or unsworn, of a substantive nature
15 which stated with particularity objections to or support for
16 the development order or enforcement action at issue may
17 request to participate in the proceeding. Those persons may
18 be permitted to participate in the hearing but shall not be
19 granted party or intervenor status. The participation of such
20 persons is limited to addressing issues raised regarding
21 alternatives, variances, and other types of adjustment to the
22 development order or enforcement action which may impact their
23 substantial interests, including denial of the development
24 order or application of an enforcement action.

25 (13) Each party must make efforts to assure that those
26 persons qualified by training or experience necessary to
27 address issues raised by the request or by the special
28 magistrate ~~master~~ and further qualified to address
29 alternatives, variances, and other types of modifications to
30 the development order or enforcement action are present at the
31 hearing.

1 (14) The special magistrate ~~master~~ may subpoena any
2 nonparty witnesses in the state whom the special magistrate
3 ~~master~~ believes will aid in the disposition of the matter.

4 (15)(a) The special magistrate ~~master~~ shall hold a
5 hearing within 45 days after his or her receipt of the request
6 for relief unless a different date is agreed to by all the
7 parties. The hearing must be held in the county in which the
8 property is located.

9 (b) The special magistrate ~~master~~ must provide notice
10 of the place, date, and time of the hearing to all parties and
11 any other persons who have requested such notice at least 40
12 days prior to the hearing.

13 (16)(a) Fifteen days following the filing of a request
14 for relief, the governmental entity that issued the
15 development order or that is taking the enforcement action
16 shall file a response to the request for relief with the
17 special magistrate ~~master~~ together with a copy to the owner.
18 The response must set forth in reasonable detail the position
19 of the governmental entity regarding the matters alleged by
20 the owner. The response must include a brief statement
21 explaining the public purpose of the regulations on which the
22 development order or enforcement action is based.

23 (b) Any governmental entity that is added by the
24 special magistrate ~~master~~ as a party must file a response to
25 the request for relief prior to the hearing but not later than
26 15 days following its admission.

27 (c) Any party may incorporate in the response to the
28 request for relief a request to be dropped from the
29 proceeding. The request to be dropped must set forth facts
30 and circumstances relevant to aid the special magistrate
31 ~~master~~ in ruling on the request. All requests to be dropped

1 must be disposed of prior to conducting any hearings on the
2 merits of the request for relief.

3 (17) In all respects, the hearing must be informal and
4 open to the public and does not require the use of an
5 attorney. The hearing must operate at the direction and under
6 the supervision of the special magistrate ~~master~~. The object
7 of the hearing is to focus attention on the impact of the
8 governmental action giving rise to the request for relief and
9 to explore alternatives to the development order or
10 enforcement action and other regulatory efforts by the
11 governmental entities in order to recommend relief, when
12 appropriate, to the owner.

13 (a) The first responsibility of the special magistrate
14 ~~master~~ is to facilitate a resolution of the conflict between
15 the owner and governmental entities to the end that some
16 modification of the owner's proposed use of the property or
17 adjustment in the development order or enforcement action or
18 regulatory efforts by one or more of the governmental parties
19 may be reached. Accordingly, the special magistrate ~~master~~
20 shall act as a facilitator or mediator between the parties in
21 an effort to effect a mutually acceptable solution. The
22 parties shall be represented at the mediation by persons with
23 authority to bind their respective parties to a solution, or
24 by persons with authority to recommend a solution directly to
25 the persons with authority to bind their respective parties to
26 a solution.

27 (b) If an acceptable solution is not reached by the
28 parties after the special magistrate's ~~master's~~ attempt at
29 mediation, the special magistrate ~~master~~ shall consider the
30 facts and circumstances set forth in the request for relief
31 and any responses and any other information produced at the

1 hearing in order to determine whether the action by the
2 governmental entity or entities is unreasonable or unfairly
3 burdens the real property.

4 (c) In conducting the hearing, the special magistrate
5 ~~master~~ may hear from all parties and witnesses that are
6 necessary to an understanding of the matter. The special
7 magistrate ~~master~~ shall weigh all information offered at the
8 hearing.

9 (18) The circumstances to be examined in determining
10 whether the development order or enforcement action, or the
11 development order or enforcement action in conjunction with
12 regulatory efforts of other governmental parties, is
13 unreasonable or unfairly burdens use of the property may
14 include, but are not limited to:

15 (a) The history of the real property, including when
16 it was purchased, how much was purchased, where it is located,
17 the nature of the title, the composition of the property, and
18 how it was initially used.

19 (b) The history or development and use of the real
20 property, including what was developed on the property and by
21 whom, if it was subdivided and how and to whom it was sold,
22 whether plats were filed or recorded, and whether
23 infrastructure and other public services or improvements may
24 have been dedicated to the public.

25 (c) The history of environmental protection and land
26 use controls and other regulations, including how and when the
27 land was classified, how use was proscribed, and what changes
28 in classifications occurred.

29 (d) The present nature and extent of the real
30 property, including its natural and altered characteristics.

31

1 (e) The reasonable expectations of the owner at the
2 time of acquisition, or immediately prior to the
3 implementation of the regulation at issue, whichever is later,
4 under the regulations then in effect and under common law.

5 (f) The public purpose sought to be achieved by the
6 development order or enforcement action, including the nature
7 and magnitude of the problem addressed by the underlying
8 regulations on which the development order or enforcement
9 action is based; whether the development order or enforcement
10 action is necessary to the achievement of the public purpose;
11 and whether there are alternative development orders or
12 enforcement action conditions that would achieve the public
13 purpose and allow for reduced restrictions on the use of the
14 property.

15 (g) Uses authorized for and restrictions placed on
16 similar property.

17 (h) Any other information determined relevant by the
18 special magistrate ~~master~~.

19 (19) Within 14 days after the conclusion of the
20 hearing, the special magistrate ~~master~~ shall prepare and file
21 with all parties a written recommendation.

22 (a) If the special magistrate ~~master~~ finds that the
23 development order at issue, or the development order or
24 enforcement action in combination with the actions or
25 regulations of other governmental entities, is not
26 unreasonable or does not unfairly burden the use of the
27 owner's property, the special magistrate ~~master~~ must recommend
28 that the development order or enforcement action remain
29 undisturbed and the proceeding shall end, subject to the
30 owner's retention of all other available remedies.

31

1 (b) If the special magistrate ~~master~~ finds that the
2 development order or enforcement action, or the development
3 order or enforcement action in combination with the actions or
4 regulations of other governmental entities, is unreasonable or
5 unfairly burdens use of the owner's property, the special
6 magistrate ~~master~~, with the owner's consent to proceed, may
7 recommend one or more alternatives that protect the public
8 interest served by the development order or enforcement action
9 and regulations at issue but allow for reduced restraints on
10 the use of the owner's real property, including, but not
11 limited to:

12 1. An adjustment of land development or permit
13 standards or other provisions controlling the development or
14 use of land.

15 2. Increases or modifications in the density,
16 intensity, or use of areas of development.

17 3. The transfer of development rights.

18 4. Land swaps or exchanges.

19 5. Mitigation, including payments in lieu of onsite
20 mitigation.

21 6. Location on the least sensitive portion of the
22 property.

23 7. Conditioning the amount of development or use
24 permitted.

25 8. A requirement that issues be addressed on a more
26 comprehensive basis than a single proposed use or development.

27 9. Issuance of the development order, a variance,
28 special exception, or other extraordinary relief, including
29 withdrawal of the enforcement action.

30 10. Purchase of the real property, or an interest
31 therein, by an appropriate governmental entity.

1 (c) This subsection does not prohibit the owner and
2 governmental entity from entering in to an agreement as to the
3 permissible use of the property prior to the special
4 magistrate ~~master~~ entering a recommendation. An agreement for
5 a permissible use must be incorporated in the special
6 magistrate's ~~master's~~ recommendation.

7 (20) The special magistrate's ~~master's~~ recommendation
8 is a public record under chapter 119. However, actions or
9 statements of all participants to the special magistrate
10 ~~master~~ proceeding are evidence of an offer to compromise and
11 inadmissible in any proceeding, judicial or administrative.

12 (21) Within 45 days after receipt of the special
13 magistrate's ~~master's~~ recommendation, the governmental entity
14 responsible for the development order or enforcement action
15 and other governmental entities participating in the
16 proceeding must consult among themselves and each governmental
17 entity must:

18 (a) Accept the recommendation of the special
19 magistrate ~~master~~ as submitted and proceed to implement it by
20 development agreement, when appropriate, or by other method,
21 in the ordinary course and consistent with the rules and
22 procedures of that governmental entity. However, the decision
23 of the governmental entity to accept the recommendation of the
24 special magistrate ~~master~~ with respect to granting a
25 modification, variance, or special exception to the
26 application of statutes, rules, regulations, or ordinances as
27 they would otherwise apply to the subject property does not
28 require an owner to duplicate previous processes in which the
29 owner has participated in order to effectuate the granting of
30 the modification, variance, or special exception;

31

1 (b) Modify the recommendation as submitted by the
2 special magistrate ~~master~~ and proceed to implement it by
3 development agreement, when appropriate, or by other method,
4 in the ordinary course and consistent with the rules and
5 procedures of that governmental entity; or

6 (c) Reject the recommendation as submitted by the
7 special magistrate ~~master~~. Failure to act within 45 days is a
8 rejection unless the period is extended by agreement of the
9 owner and issuer of the development order or enforcement
10 action.

11 (22) If a governmental entity accepts the special
12 magistrate's ~~master's~~ recommendation or modifies it and the
13 owner rejects the acceptance or modification, or if a
14 governmental entity rejects the special magistrate's ~~master's~~
15 recommendation, the governmental entity must issue a written
16 decision within 30 days that describes as specifically as
17 possible the use or uses available to the subject real
18 property.

19 (23) The procedure established by this section may not
20 continue longer than 165 days, unless the period is extended
21 by agreement of the parties. A decision describing available
22 uses constitutes the last prerequisite to judicial action and
23 the matter is ripe or final for subsequent judicial
24 proceedings unless the owner initiates a proceeding under ss.
25 120.569 and 120.57. If the owner brings a proceeding under ss.
26 120.569 and 120.57, the matter is ripe when the proceeding
27 culminates in a final order whether further appeal is
28 available or not.

29 (24) The procedure created by this section is not
30 itself, nor does it create, a judicial cause of action. Once
31 the governmental entity acts on the special magistrate's

1 ~~master's~~ recommendation, the owner may elect to file suit in a
2 court of competent jurisdiction. Invoking the procedures of
3 this section is not a condition precedent to filing a civil
4 action.

5 (25) Regardless of the action the governmental entity
6 takes on the special magistrate's ~~master's~~ recommendation, a
7 recommendation that the development order or enforcement
8 action, or the development order or enforcement action in
9 combination with other governmental regulatory actions, is
10 unreasonable or unfairly burdens use of the owner's real
11 property may serve as an indication of sufficient hardship to
12 support modification, variances, or special exceptions to the
13 application of statutes, rules, regulations, or ordinances to
14 the subject property.

15 (26) A special magistrate's ~~master's~~ recommendation
16 under this section constitutes data in support of, and a
17 support document for, a comprehensive plan or comprehensive
18 plan amendment, but is not, in and of itself, dispositive of a
19 determination of compliance with chapter 163. Any
20 comprehensive plan amendment necessary to carry out the
21 approved recommendation of a special magistrate ~~master~~ under
22 this section is exempt from the twice-a-year limit on plan
23 amendments and may be adopted by the local government
24 amendments in s. 163.3184(16)(d).

25 (27) The special magistrate ~~master~~ shall send a copy
26 of the recommendation in each case to the Department of Legal
27 Affairs. Each governmental entity, within 15 days after its
28 action on the special magistrate's ~~master's~~ recommendation,
29 shall notify the Department of Legal Affairs in writing as to
30 what action the governmental entity took on the special
31 magistrate's ~~master's~~ recommendation.

1 (28) Each governmental entity may establish procedural
2 guidelines to govern the conduct of proceedings authorized by
3 this section, which must include, but are not limited to,
4 payment of special magistrate ~~master~~ fees and expenses,
5 including the costs of providing notice and effecting service
6 of the request for relief under this section, which shall be
7 borne equally by the governmental entities and the owner.

8 (29) This section shall be liberally construed to
9 effect fully its obvious purposes and intent, and governmental
10 entities shall direct all available resources and authorities
11 to effect fully the obvious purposes and intent of this
12 section in resolving disputes. Governmental entities are
13 encouraged to expedite notice and time-related provisions to
14 implement resolution of disputes under this section. The
15 procedure established by this section may be used to resolve
16 disputes in pending judicial proceedings, with the agreement
17 of the parties to the judicial proceedings, and subject to the
18 approval of the court in which the judicial proceedings are
19 pending. The provisions of this section are cumulative, and
20 do not supplant other methods agreed to by the parties and
21 lawfully available for arbitration, mediation, or other forms
22 of alternative dispute resolution.

23 (30) This section applies only to development orders
24 issued, modified, or amended, or to enforcement actions
25 issued, on or after October 1, 1995.

26 Section 59. Subsection (1) of section 92.142, Florida
27 Statutes, is amended to read:

28 92.142 Witnesses; pay.--

29 (1) Witnesses in all cases, civil and criminal, in all
30 courts, now or hereafter created, and witnesses summoned
31 before any arbitrator or general or special magistrate

1 appointed by the court ~~master in chancery~~ shall receive for
2 each day's actual attendance \$5 and also 6 cents per mile for
3 actual distance traveled to and from the courts. A witness in
4 a criminal case required to appear in a county other than the
5 county of his or her residence and residing more than 50 miles
6 from the location of the trial shall be entitled to per diem
7 and travel expenses at the same rate provided for state
8 employees under s. 112.061, in lieu of any other witness fee
9 at the discretion of the court.

10 Section 60. Section 112.41, Florida Statutes, is
11 amended to read:

12 112.41 Contents of order of suspension; Senate select
13 committee; special magistrate ~~examiner~~.--

14 (1) The order of the Governor, in suspending any
15 officer pursuant to the provisions of s. 7, Art. IV of the
16 State Constitution, shall specify facts sufficient to advise
17 both the officer and the Senate as to the charges made or the
18 basis of the suspension.

19 (2) The Senate shall conduct a hearing in the manner
20 prescribed by rules of the Senate adopted for this purpose.

21 (3) The Senate may provide for a select committee to
22 be appointed by the Senate in accordance with its rules for
23 the purpose of hearing the evidence and making its
24 recommendation to the Senate as to the removal or
25 reinstatement of the suspended officer.

26 (4) The Senate may, in lieu of the use of a select
27 committee, appoint a ~~special examiner or a~~ special magistrate
28 ~~master~~ to receive the evidence and make recommendations to the
29 Senate.

30 Section 61. Section 112.43, Florida Statutes, is
31 amended to read:

1 112.43 Prosecution of suspension before Senate.--All
2 suspensions heard by the Senate, a select committee, or
3 special magistrate ~~master, or examiner~~ in accordance with
4 rules of the Senate shall be prosecuted by the Governor, the
5 Governor's legal staff, or an attorney designated by the
6 Governor. Should the Senate, or the select committee
7 appointed by the Senate to hear the evidence and to make
8 recommendations, desire private counsel, either the Senate or
9 the select committee shall be entitled to employ its own
10 counsel for this purpose. Nothing herein shall prevent the
11 Senate or its select committee from making its own
12 investigation and presenting such evidence as its
13 investigation may reveal. The Governor may request the advice
14 of the Department of Legal Affairs relative to the suspension
15 order prior to its issuance by the Governor. Following the
16 issuance of the suspension order, either the Senate or the
17 select committee may request the Department of Legal Affairs
18 to provide counsel for the Senate to advise on questions of
19 law or otherwise advise with the Senate or the select
20 committee, but the Department of Legal Affairs shall not be
21 required to prosecute before the Senate or the committee and
22 shall, pursuant to the terms of this section, act as the legal
23 adviser only.

24 Section 62. Section 112.47, Florida Statutes, is
25 amended to read:

26 112.47 Hearing before Senate select committee;
27 notice.--The Senate shall afford each suspended official a
28 hearing before a select committee or special magistrate,
29 ~~master, or examiner~~, and shall notify such suspended official
30 of the time and place of the hearing sufficiently in advance
31 thereof to afford such official an opportunity fully and

1 adequately to prepare such defenses as the official may be
2 advised are necessary and proper, and all such defenses may be
3 presented by the official or by the official's attorney. In
4 the furtherance of this provision the Senate shall adopt
5 sufficient procedural rules to afford due process both to the
6 Governor in the presentation of his or her evidence and to the
7 suspended official, but in the absence of such adoption, this
8 section shall afford a full and complete hearing, public in
9 nature, as required by the State Constitution. However,
10 nothing in this part shall prevent either the select committee
11 or the Senate from conducting portions of the hearing in
12 executive session if the Senate rules so provide.

13 Section 63. Subsection (2) of section 162.03, Florida
14 Statutes, is amended to read:

15 162.03 Applicability.--

16 (2) A charter county, a noncharter county, or a
17 municipality may, by ordinance, adopt an alternate code
18 enforcement system that ~~which~~ gives code enforcement boards or
19 special magistrates ~~masters~~ designated by the local governing
20 body, or both, the authority to hold hearings and assess fines
21 against violators of the respective county or municipal codes
22 and ordinances. A special magistrate ~~master~~ shall have the
23 same status as an enforcement board under this chapter.
24 References in this chapter to an enforcement board, except in
25 s. 162.05, shall include a special magistrate ~~master~~ if the
26 context permits.

27 Section 64. Subsection (5) of section 162.06, Florida
28 Statutes, is amended to read:

29 162.06 Enforcement procedure.--

30 (5) If the owner of property that ~~which~~ is subject to
31 an enforcement proceeding before an enforcement board, special

1 magistrate ~~master~~, or court transfers ownership of such
2 property between the time the initial pleading was served and
3 the time of the hearing, such owner shall:

4 (a) Disclose, in writing, the existence and the nature
5 of the proceeding to the prospective transferee.

6 (b) Deliver to the prospective transferee a copy of
7 the pleadings, notices, and other materials relating to the
8 code enforcement proceeding received by the transferor.

9 (c) Disclose, in writing, to the prospective
10 transferee that the new owner will be responsible for
11 compliance with the applicable code and with orders issued in
12 the code enforcement proceeding.

13 (d) File a notice with the code enforcement official
14 of the transfer of the property, with the identity and address
15 of the new owner and copies of the disclosures made to the new
16 owner, within 5 days after the date of the transfer.

17
18 A failure to make the disclosures described in paragraphs (a),
19 (b), and (c) before the transfer creates a rebuttable
20 presumption of fraud. If the property is transferred before
21 the hearing, the proceeding shall not be dismissed, but the
22 new owner shall be provided a reasonable period of time to
23 correct the violation before the hearing is held.

24 Section 65. Paragraph (d) of subsection (2) of section
25 162.09, Florida Statutes, is amended to read:

26 162.09 Administrative fines; costs of repair; liens.--

27 (2)

28 (d) A county or a municipality having a population
29 equal to or greater than 50,000 may adopt, by a vote of at
30 least a majority plus one of the entire governing body of the
31 county or municipality, an ordinance that gives code

1 enforcement boards or special magistrates ~~masters~~, or both,
2 authority to impose fines in excess of the limits set forth in
3 paragraph (a). Such fines shall not exceed \$1,000 per day per
4 violation for a first violation, \$5,000 per day per violation
5 for a repeat violation, and up to \$15,000 per violation if the
6 code enforcement board or special magistrate ~~master~~ finds the
7 violation to be irreparable or irreversible in nature. In
8 addition to such fines, a code enforcement board or special
9 magistrate ~~master~~ may impose additional fines to cover all
10 costs incurred by the local government in enforcing its codes
11 and all costs of repairs pursuant to subsection (1). Any
12 ordinance imposing such fines shall include criteria to be
13 considered by the code enforcement board or special magistrate
14 ~~master~~ in determining the amount of the fines, including, but
15 not limited to, those factors set forth in paragraph (b).

16 Section 66. Section 173.09, Florida Statutes, is
17 amended to read:

18 173.09 Judgment for complainant; special magistrate's
19 ~~master's~~ sale; complainant may purchase and later sell.--

20 (1) Any such decree shall direct the special
21 magistrate ~~master~~ thereby appointed to sell the several
22 parcels of land separately to the highest and best bidder for
23 cash (or, at the option of complainant, to the extent of
24 special assessments included in such judgment, for bonds or
25 interest coupons issued by complainant), at public outcry at
26 the courthouse door of the county in which such suit is
27 pending, or at such point or place in the complainant
28 municipality as the court in such final decree may direct,
29 after having advertised such sale (which advertisement may
30 include all lands so ordered sold) once each week for 2
31 consecutive weeks in some newspaper published in the

1 municipality ~~city or town~~ in which ~~is~~ the complainant arose
2 or, if there is no such newspaper, in a newspaper published in
3 the county in which the suit is pending, and if all the lands
4 so advertised for sale be not sold on the day specified in
5 such advertisement, such sale shall be continued from day to
6 day until the sale of all such land is completed.

7 (2) Such sales shall be subject to confirmation by the
8 court, and the ~~said~~ special magistrate ~~master~~ shall, upon
9 confirmation of the sale or sales, deliver to the purchaser or
10 purchasers at said sale a deed of conveyance of the property
11 so sold; provided, however, that in any case where any lands
12 are offered for sale by the special magistrate ~~master~~ and the
13 sum of the tax, tax certificates and special assessments,
14 interest, penalty, costs, and attorney's fee is not bid for
15 the same, the complainant may bid the whole amount due and the
16 special magistrate ~~master~~ shall thereupon convey such parcel
17 or parcels of land to the complainant.

18 (3) The property so bid in by complainant shall become
19 its property in fee simple and may be disposed of by it in the
20 manner provided by law, except that in the sale or disposition
21 of any such lands the municipality ~~city or town~~ may, in its
22 discretion, accept in payment or part payment therefor any
23 bonds or interest coupons constituting liabilities of the
24 municipality ~~said city or town~~.

25 Section 67. Section 173.10, Florida Statutes, is
26 amended to read:

27 173.10 Judgment for complainant; court may order
28 payment of other taxes or sale subject to taxes; special
29 magistrate's ~~master's~~ conveyances.--

30 (1) In the judgment or decree the court may, in its
31 discretion, direct the payment of all unpaid state and county

1 taxes and also all unpaid municipal ~~city or town~~ taxes and
2 special assessments or installments thereof, imposed or
3 falling due since the institution of the suit, with the
4 penalties and costs, out of the proceeds of such foreclosure
5 sale, or it may order and direct such sale or sales to be made
6 subject to such state, ~~and~~ county, and municipal ~~city or town~~
7 taxes and special assessments.

8 (2) Any and all conveyances by the special magistrate
9 ~~master~~ shall vest in the purchaser the fee simple title to the
10 property so sold, subject only to such liens for state and
11 county taxes or taxing districts whose liens are of equal
12 dignity, and liens for municipal taxes and special
13 assessments, or installments thereof, as are not directed by
14 the decree of sale to be paid out of the proceeds of said
15 sale.

16 Section 68. Section 173.11, Florida Statutes, is
17 amended to read:

18 173.11 Distribution of proceeds of sale.--The proceeds
19 of any foreclosure sale authorized by this chapter shall be
20 distributed by the special magistrate ~~master~~ conducting the
21 sale according to the final decree, and if any surplus remains
22 after the payment of the full amount of the decree, costs and
23 attorney's fees, and any subsequent tax liens that ~~which~~ may
24 be directed by such decree to be paid from the proceeds of
25 sale, such surplus shall be deposited with the clerk of the
26 court and disbursed under order of the court.

27 Section 69. Section 173.12, Florida Statutes, is
28 amended to read:

29 173.12 Lands may be redeemed prior to sale.--Any
30 person interested in any lands included in the suit may redeem
31 such lands at any time prior to the sale thereof by the

1 special magistrate ~~master~~ by paying into the registry of the
2 court the amount due for delinquent taxes, interest and
3 penalties thereon, and such proportionate part of the expense,
4 attorney's fees, and costs of suit as may have been fixed by
5 the court in its decree of sale, or by written stipulation of
6 complainant, and thereupon such lands shall be dismissed from
7 the cause.

8 Section 70. Subsection (1) of section 194.013, Florida
9 Statutes, is amended to read:

10 194.013 Filing fees for petitions; disposition;
11 waiver.--

12 (1) If so required by resolution of the value
13 adjustment board, a petition filed pursuant to s. 194.011
14 shall be accompanied by a filing fee to be paid to the clerk
15 of the value adjustment board in an amount determined by the
16 board not to exceed \$15 for each separate parcel of property,
17 real or personal, covered by the petition and subject to
18 appeal. However, no such filing fee may be required with
19 respect to an appeal from the disapproval of homestead
20 exemption under s. 196.151 or from the denial of tax deferral
21 under s. 197.253. Only a single filing fee shall be charged
22 under this section as to any particular parcel of property
23 despite the existence of multiple issues and hearings
24 pertaining to such parcel. For joint petitions filed pursuant
25 to s. 194.011(3)(e) or (f), a single filing fee shall be
26 charged. Such fee shall be calculated as the cost of the
27 special magistrate ~~master~~ for the time involved in hearing the
28 joint petition and shall not exceed \$5 per parcel. Said fee
29 is to be proportionately paid by affected parcel owners.

30
31

1 Section 71. Paragraph (d) of subsection (1) and
2 subsections (2) and (6) of section 194.034, Florida Statutes,
3 are amended to read:

4 194.034 Hearing procedures; rules.--

5 (1)

6 (d) Notwithstanding the provisions of this subsection,
7 no petitioner may present for consideration, nor may a board
8 or special magistrate ~~master~~ accept for consideration,
9 testimony or other evidentiary materials that were requested
10 of the petitioner in writing by the property appraiser of
11 which the petitioner had knowledge and denied to the property
12 appraiser.

13 (2) In each case, except when a complaint is withdrawn
14 by the petitioner or is acknowledged as correct by the
15 property appraiser, the value adjustment board shall render a
16 written decision. All such decisions shall be issued within
17 20 calendar days after ~~of~~ the last day the board is in session
18 under s. 194.032. The decision of the board shall contain
19 findings of fact and conclusions of law and shall include
20 reasons for upholding or overturning the determination of the
21 property appraiser. When a special magistrate ~~master~~ has been
22 appointed, the recommendations of the special magistrate
23 ~~master~~ shall be considered by the board. The clerk, upon
24 issuance of the decisions, shall, on a form provided by the
25 Department of Revenue, notify by first-class mail each
26 taxpayer, the property appraiser, and the department of the
27 decision of the board.

28 (6) For purposes of hearing joint petitions filed
29 pursuant to s. 194.011(3)(e), each included parcel shall be
30 considered by the board as a separate petition. Such separate
31 petitions shall be heard consecutively by the board. If a

1 special magistrate ~~master~~ is appointed, such separate
2 petitions shall all be assigned to the same special magistrate
3 ~~master~~.

4 Section 72. Section 194.035, Florida Statutes, is
5 amended to read:

6 194.035 Special magistrates ~~masters~~; property
7 evaluators.--

8 (1) The board is authorized to appoint special
9 magistrates ~~masters~~ for the purpose of taking testimony and
10 making recommendations to the board, which recommendations the
11 board may act upon without further hearing. These ~~Such~~
12 special magistrates ~~masters~~ may not be elected or appointed
13 officials or employees of the county but shall be selected
14 from a list of those qualified individuals who are willing to
15 serve as special magistrate ~~masters~~. The clerk of the board
16 shall annually notify such individuals or their professional
17 associations to make known to them that opportunities to serve
18 as special magistrates ~~masters~~ exist. A special magistrate
19 ~~master~~ shall be either a member of The Florida Bar and
20 knowledgeable in the area of ad valorem taxation or a
21 designated member of a professionally recognized real estate
22 appraisers' organization and have not less than 5 years'
23 experience in property valuation. A special magistrate ~~master~~
24 need not be a resident of the county in which he or she
25 serves. A ~~No~~ special magistrate ~~may not~~ ~~master shall be~~
26 ~~permitted to~~ represent a person before the board in any tax
27 year during which he or she has served that board as a special
28 magistrate ~~master~~. The board shall appoint special
29 magistrates ~~such masters~~ from the list so compiled prior to
30 convening of the board. The expense of hearings before
31 special magistrates ~~masters~~ and any compensation of special

1 magistrate ~~masters~~ shall be borne three-fifths by the board of
2 county commissioners and two-fifths by the school board.

3 (2) The value adjustment board of each county may
4 employ qualified property appraisers or evaluators to appear
5 before the value adjustment board at that meeting of the board
6 which is held for the purpose of hearing complaints. Such
7 property appraisers or evaluators shall present testimony as
8 to the just value of any property the value of which is
9 contested before the board and shall submit to examination by
10 the board, the taxpayer, and the property appraiser.

11 Section 73. Section 206.16, Florida Statutes, is
12 amended to read:

13 206.16 Officer selling property.--

14 (1) No sheriff, receiver, assignee, general or special
15 magistrate ~~master~~, or other officer shall sell the property or
16 franchise of any person for failure to pay fuel taxes,
17 penalties, or interest without first filing with the
18 department a statement containing the following information:

19 (a) The name of the plaintiff or party at whose
20 instance or upon whose account the sale is made;

21 (b) The name of the person whose property or franchise
22 is to be sold;

23 (c) The time and place of sale; and

24 (d) The nature of the property and the location of the
25 same.

26 (2) The department, after receiving notice as
27 aforesaid, shall furnish to the sheriff, receiver, trustee,
28 assignee, general or special magistrate ~~master~~, or other
29 officer having charge of the sale a certified copy or copies
30 of all fuel taxes, penalties, and interest on file in the
31 office of the department as liens against such person, and, in

1 the event there are no such liens, a certificate showing that
2 fact, which certified copies or copy of certificate shall be
3 publicly read by such officer at and immediately before the
4 sale of the property or franchise of such person.

5 Section 74. Section 207.016, Florida Statutes, is
6 amended to read:

7 207.016 Officer's sale of property or franchise.--

8 (1) No sheriff, receiver, assignee, general or special
9 magistrate ~~master~~, or other officer shall sell the property or
10 franchise of any person for failure to pay taxes, penalties,
11 or interest without first filing with the department a
12 statement containing the following information:

13 (a) The name of the plaintiff or party at whose
14 instance or upon whose account the sale is made.

15 (b) The name of the person whose property or franchise
16 is to be sold.

17 (c) The time and place of sale.

18 (d) The nature of the property and the location of the
19 same.

20 (2) The department, after receiving notice as provided
21 in subsection (1), shall furnish to the sheriff, receiver,
22 trustee, assignee, general or special magistrate ~~master~~, or
23 other officer having charge of the sale a certified copy or
24 copies of all taxes, penalties, and interest on file in the
25 office of the department as liens against such person and, in
26 the event there are no such liens, a certificate showing that
27 fact, which certified copy or copies of certificate shall be
28 publicly read by such officer at and immediately before the
29 sale of the property or franchise of such person.

30 Section 75. Section 320.411, Florida Statutes, is
31 amended to read:

1 320.411 Officer's sale of property or franchise.--

2 (1) No sheriff, receiver, assignee, general or special
3 magistrate master, or other officer shall sell the property or
4 franchise of any motor carrier for failure to pay taxes,
5 penalties, or interest without first filing with the
6 department a statement containing the following information:

7 (a) The name of the plaintiff or party at whose
8 instance or upon whose account the sale is made.

9 (b) The name of the motor carrier whose property or
10 franchise is to be sold.

11 (c) The time and place of sale.

12 (d) The nature of the property and the location of the
13 same.

14 (2) The department, after receiving notice as provided
15 in subsection (1), shall furnish to the sheriff, receiver,
16 trustee, assignee, general or special magistrate master, or
17 other officer having charge of the sale a certified copy of
18 all taxes, penalties, and interest on file in the office of
19 the department as liens against such motor carrier and, in the
20 event there are no such liens, a certificate showing that
21 fact, which certified copy or copies of certificate shall be
22 publicly read by such officer at and immediately before the
23 sale of the property or franchise of such motor carrier.

24 Section 76. Subsection (7) of section 393.11, Florida
25 Statutes, is amended to read:

26 393.11 Involuntary admission to residential
27 services.--

28 (7) HEARING.--

29 (a) The hearing for involuntary admission shall be
30 conducted, and the order shall be entered, in the county in
31 which the person is residing or be as convenient to the person

1 as may be consistent with orderly procedure. The hearing shall
2 be conducted in a physical setting not likely to be injurious
3 to the person's condition.

4 (b) A hearing on the petition shall be held as soon as
5 practicable after the petition is filed, but reasonable delay
6 for the purpose of investigation, discovery, or procuring
7 counsel or witnesses shall be granted.

8 (c) The court may appoint a general or special
9 magistrate ~~master~~ to preside. Except as otherwise specified,
10 the magistrate's ~~master's~~ proceeding shall be governed by Rule
11 1.490, Florida Rules of Civil Procedure.

12 (d) The person with mental retardation shall be
13 physically present throughout the entire proceeding. If the
14 person's attorney believes that the person's presence at the
15 hearing is not in the person's best interest, the person's
16 presence may be waived once the court has seen the person and
17 the hearing has commenced.

18 (e) The person shall have the right to present
19 evidence and to cross-examine all witnesses and other evidence
20 alleging the appropriateness of the person's admission to
21 residential care. Other relevant and material evidence
22 regarding the appropriateness of the person's admission to
23 residential services; the most appropriate, least restrictive
24 residential placement; and the appropriate care, treatment,
25 and habilitation of the person, including written or oral
26 reports, may be introduced at the hearing by any interested
27 person.

28 (f) The petitioning commission may be represented by
29 counsel at the hearing. The petitioning commission shall have
30 the right to call witnesses, present evidence, cross-examine
31

1 witnesses, and present argument on behalf of the petitioning
2 commission.

3 (g) All evidence shall be presented according to
4 chapter 90. The burden of proof shall be on the party
5 alleging the appropriateness of the person's admission to
6 residential services. The burden of proof shall be by clear
7 and convincing evidence.

8 (h) All stages of each proceeding shall be
9 stenographically reported.

10 Section 77. Subsections (6) and (7) of section
11 394.467, Florida Statutes, are amended to read:

12 394.467 Involuntary placement.--

13 (6) HEARING ON INVOLUNTARY PLACEMENT.--

14 (a)1. The court shall hold the hearing on involuntary
15 placement within 5 days, unless a continuance is granted. The
16 hearing shall be held in the county where the patient is
17 located and shall be as convenient to the patient as may be
18 consistent with orderly procedure and shall be conducted in
19 physical settings not likely to be injurious to the patient's
20 condition. If the court finds that the patient's attendance
21 at the hearing is not consistent with the best interests of
22 the patient, and the patient's counsel does not object, the
23 court may waive the presence of the patient from all or any
24 portion of the hearing. The state attorney for the circuit in
25 which the patient is located shall represent the state, rather
26 than the petitioning facility administrator, as the real party
27 in interest in the proceeding.

28 2. The court may appoint a general or special
29 magistrate ~~master~~ to preside at the hearing. One of the
30 professionals who executed the involuntary placement
31 certificate shall be a witness. The patient and the patient's

1 guardian or representative shall be informed by the court of
2 the right to an independent expert examination. If the
3 patient cannot afford such an examination, the court shall
4 provide for one. The independent expert's report shall be
5 confidential and not discoverable, unless the expert is to be
6 called as a witness for the patient at the hearing. The
7 testimony in the hearing must be given under oath, and the
8 proceedings must be recorded. The patient may refuse to
9 testify at the hearing.

10 (b) If the court concludes that the patient meets the
11 criteria for involuntary placement, it shall order that the
12 patient be transferred to a treatment facility or, if the
13 patient is at a treatment facility, that the patient be
14 retained there or be treated at any other appropriate
15 receiving or treatment facility, or that the patient receive
16 services from a receiving or treatment facility, on an
17 involuntary basis, for a period of up to 6 months. The order
18 shall specify the nature and extent of the patient's mental
19 illness. The facility shall discharge a patient any time the
20 patient no longer meets the criteria for involuntary
21 placement, unless the patient has transferred to voluntary
22 status.

23 (c) If at any time prior to the conclusion of the
24 hearing on involuntary placement it appears to the court that
25 the person does not meet the criteria for involuntary
26 placement under this chapter, but instead meets the criteria
27 for involuntary assessment, protective custody, or involuntary
28 admission pursuant to s. 397.675, then the court may order the
29 person to be admitted for involuntary assessment for a period
30 of 5 days pursuant to s. 397.6811. Thereafter, all
31 proceedings shall be governed by chapter 397.

1 (d) At the hearing on involuntary placement, the court
2 shall consider testimony and evidence regarding the patient's
3 competence to consent to treatment. If the court finds that
4 the patient is incompetent to consent to treatment, it shall
5 appoint a guardian advocate as provided in s. 394.4598.

6 (e) The administrator of the receiving facility shall
7 provide a copy of the court order and adequate documentation
8 of a patient's mental illness to the administrator of a
9 treatment facility whenever a patient is ordered for
10 involuntary placement, whether by civil or criminal court.
11 Such documentation shall include any advance directives made
12 by the patient, a psychiatric evaluation of the patient, and
13 any evaluations of the patient performed by a clinical
14 psychologist or a clinical social worker. The administrator of
15 a treatment facility may refuse admission to any patient
16 directed to its facilities on an involuntary basis, whether by
17 civil or criminal court order, who is not accompanied at the
18 same time by adequate orders and documentation.

19 (7) PROCEDURE FOR CONTINUED INVOLUNTARY PLACEMENT.--

20 (a) Hearings on petitions for continued involuntary
21 placement shall be administrative hearings and shall be
22 conducted in accordance with the provisions of s. 120.57(1),
23 except that any order entered by the administrative law judge
24 ~~hearing officer~~ shall be final and subject to judicial review
25 in accordance with s. 120.68. Orders concerning patients
26 committed after successfully pleading not guilty by reason of
27 insanity shall be governed by the provisions of s. 916.15.

28 (b) If the patient continues to meet the criteria for
29 involuntary placement, the administrator shall, prior to the
30 expiration of the period during which the treatment facility
31 is authorized to retain the patient, file a petition

1 requesting authorization for continued involuntary placement.
2 The request shall be accompanied by a statement from the
3 patient's physician or clinical psychologist justifying the
4 request, a brief description of the patient's treatment during
5 the time he or she was involuntarily placed, and an
6 individualized plan of continued treatment. Notice of the
7 hearing shall be provided as set forth in s. 394.4599. If at
8 the hearing the administrative law judge ~~hearing officer~~ finds
9 that attendance at the hearing is not consistent with the best
10 interests of the patient, the administrative law judge ~~hearing~~
11 ~~officer~~ may waive the presence of the patient from all or any
12 portion of the hearing, unless the patient, through counsel,
13 objects to the waiver of presence. The testimony in the
14 hearing must be under oath, and the proceedings must be
15 recorded.

16 (c) Unless the patient is otherwise represented or is
17 ineligible, he or she shall be represented at the hearing on
18 the petition for continued involuntary placement by the public
19 defender of the circuit in which the facility is located.

20 (d) If at a hearing it is shown that the patient
21 continues to meet the criteria for involuntary placement, the
22 administrative law judge shall sign the order for continued
23 involuntary placement for a period not to exceed 6 months.
24 The same procedure shall be repeated prior to the expiration
25 of each additional period the patient is retained.

26 (e) If continued involuntary placement is necessary
27 for a patient admitted while serving a criminal sentence, but
28 whose sentence is about to expire, or for a patient
29 involuntarily placed while a minor but who is about to reach
30 the age of 18, the administrator shall petition the
31

1 administrative law judge for an order authorizing continued
2 involuntary placement.

3 (f) If the patient has been previously found
4 incompetent to consent to treatment, the administrative law
5 judge hearing officer shall consider testimony and evidence
6 regarding the patient's competence. If the administrative law
7 judge hearing officer finds evidence that the patient is now
8 competent to consent to treatment, the administrative law
9 judge hearing officer may issue a recommended order to the
10 court that found the patient incompetent to consent to
11 treatment that the patient's competence be restored and that
12 any guardian advocate previously appointed be discharged.

13 Section 78. Subsection (8) of section 397.311, Florida
14 Statutes, is amended to read:

15 397.311 Definitions.--As used in this chapter, except
16 part VIII:

17 (8) "Court" means, with respect to all involuntary
18 proceedings under this chapter, the circuit court of the
19 county in which the judicial proceeding is pending or where
20 the substance abuse impaired person resides or is located, and
21 includes any general or special magistrate ~~master~~ that may be
22 appointed by the chief judge to preside over all or part of
23 such proceeding. Otherwise, "court" refers to the court of
24 legal jurisdiction in the context in which the term is used in
25 this chapter.

26 Section 79. Subsection (1) of section 397.681, Florida
27 Statutes, is amended to read:

28 397.681 Involuntary petitions; general provisions;
29 court jurisdiction and right to counsel.--

30 (1) JURISDICTION.--The courts have jurisdiction of
31 involuntary assessment and stabilization petitions and

1 involuntary treatment petitions for substance abuse impaired
2 persons, and such petitions must be filed with the clerk of
3 the court in the county where the person is located. The
4 chief judge may appoint a general or special magistrate ~~master~~
5 to preside over all or part of the proceedings. The alleged
6 impaired person is named as the respondent.

7 Section 80. Subsection (5) of section 447.207, Florida
8 Statutes, is amended to read:

9 447.207 Commission; powers and duties.--

10 (5) The commission shall adopt rules as to the
11 qualifications of persons who may serve as mediators and
12 special magistrates ~~masters~~ and shall maintain lists of such
13 qualified persons who are not employees of the commission.
14 The commission may initiate dispute resolution procedures by
15 special magistrates ~~masters~~, pursuant to the provisions of
16 this part.

17 Section 81. Subsections (2), (3), and (4) of section
18 447.403, Florida Statutes, are amended to read:

19 447.403 Resolution of impasses.--

20 (2)(a) If no mediator is appointed, or upon the
21 request of either party, the commission shall appoint, and
22 submit all unresolved issues to, a special magistrate ~~master~~
23 acceptable to both parties. If the parties are unable to agree
24 on the appointment of a special magistrate ~~master~~, the
25 commission shall appoint, in its discretion, a qualified
26 special magistrate ~~master~~. However, if the parties agree in
27 writing to waive the appointment of a special magistrate
28 ~~master~~, the parties may proceed directly to resolution of the
29 impasse by the legislative body pursuant to paragraph (4)(d).
30 Nothing in this section precludes the parties from using the
31

1 services of a mediator at any time during the conduct of
2 collective bargaining.

3 (b) If the Governor is the public employer, no special
4 magistrate ~~master~~ shall be appointed. The parties may proceed
5 directly to the Legislature for resolution of the impasse
6 pursuant to paragraph (4)(d).

7 (3) The special magistrate ~~master~~ shall hold hearings
8 in order to define the area or areas of dispute, to determine
9 facts relating to the dispute, and to render a decision on any
10 and all unresolved contract issues. The hearings shall be
11 held at times, dates, and places to be established by the
12 special magistrate ~~master~~ in accordance with rules promulgated
13 by the commission. The special magistrate ~~master~~ shall be
14 empowered to administer oaths and issue subpoenas on behalf of
15 the parties to the dispute or on his or her own behalf.
16 Within 15 calendar days after the close of the final hearing,
17 the special magistrate ~~master~~ shall transmit his or her
18 recommended decision to the commission and to the
19 representatives of both parties by registered mail, return
20 receipt requested. Such recommended decision shall be
21 discussed by the parties, and each recommendation of the
22 special magistrate ~~master~~ shall be deemed approved by both
23 parties unless specifically rejected by either party by
24 written notice filed with the commission within 20 calendar
25 days after the date the party received the special
26 magistrate's ~~master's~~ recommended decision. The written
27 notice shall include a statement of the cause for each
28 rejection and shall be served upon the other party.

29 (4) In the event that either the public employer or
30 the employee organization does not accept, in whole or in
31

1 part, the recommended decision of the special magistrate
2 ~~master~~:

3 (a) The chief executive officer of the governmental
4 entity involved shall, within 10 days after rejection of a
5 recommendation of the special magistrate ~~master~~, submit to the
6 legislative body of the governmental entity involved a copy of
7 the findings of fact and recommended decision of the special
8 magistrate ~~master~~, together with the chief executive officer's
9 recommendations for settling the disputed impasse issues. The
10 chief executive officer shall also transmit his or her
11 recommendations to the employee organization. If the dispute
12 involves employees for whom the Board of Regents is the public
13 employer, the Governor may also submit recommendations to the
14 legislative body for settling the disputed impasse issues;

15 (b) The employee organization shall submit its
16 recommendations for settling the disputed impasse issues to
17 such legislative body and to the chief executive officer;

18 (c) The legislative body or a duly authorized
19 committee thereof shall forthwith conduct a public hearing at
20 which the parties shall be required to explain their positions
21 with respect to the rejected recommendations of the special
22 magistrate ~~master~~;

23 (d) Thereafter, the legislative body shall take such
24 action as it deems to be in the public interest, including the
25 interest of the public employees involved, to resolve all
26 disputed impasse issues; and

27 (e) Following the resolution of the disputed impasse
28 issues by the legislative body, the parties shall reduce to
29 writing an agreement which includes those issues agreed to by
30 the parties and those disputed impasse issues resolved by the
31 legislative body's action taken pursuant to paragraph (d). The

1 agreement shall be signed by the chief executive officer and
2 the bargaining agent and shall be submitted to the public
3 employer and to the public employees who are members of the
4 bargaining unit for ratification. If such agreement is not
5 ratified by all parties, pursuant to the provisions of s.
6 447.309, the legislative body's action taken pursuant to the
7 provisions of paragraph (d) shall take effect as of the date
8 of such legislative body's action for the remainder of the
9 first fiscal year which was the subject of negotiations;
10 however, the legislative body's action shall not take effect
11 with respect to those disputed impasse issues which establish
12 the language of contractual provisions which could have no
13 effect in the absence of a ratified agreement, including, but
14 not limited to, preambles, recognition clauses, and duration
15 clauses.

16 Section 82. Section 447.405, Florida Statutes, is
17 amended to read:

18 447.405 Factors to be considered by the special
19 magistrate ~~master~~.--The special magistrate ~~master~~ shall
20 conduct the hearings and render recommended decisions with the
21 objective of achieving a prompt, peaceful, and just settlement
22 of disputes between the public employee organizations and the
23 public employers. The factors, among others, to be given
24 weight by the special magistrate ~~master~~ in arriving at a
25 recommended decision shall include:

26 (1) Comparison of the annual income of employment of
27 the public employees in question with the annual income of
28 employment maintained for the same or similar work of
29 employees exhibiting like or similar skills under the same or
30 similar working conditions in the local operating area
31 involved.

1 (2) Comparison of the annual income of employment of
2 the public employees in question with the annual income of
3 employment of public employees in similar public employee
4 governmental bodies of comparable size within the state.

5 (3) The interest and welfare of the public.

6 (4) Comparison of peculiarities of employment in
7 regard to other trades or professions, specifically with
8 respect to:

9 (a) Hazards of employment.

10 (b) Physical qualifications.

11 (c) Educational qualifications.

12 (d) Intellectual qualifications.

13 (e) Job training and skills.

14 (f) Retirement plans.

15 (g) Sick leave.

16 (h) Job security.

17 (5) Availability of funds.

18 Section 83. Section 447.407, Florida Statutes, is
19 amended to read:

20 447.407 Compensation of mediator and special
21 magistrate ~~master~~; expenses.--The compensation of the mediator
22 and special magistrate ~~master~~, and all stenographic and other
23 expenses, shall be borne equally by the parties.

24 Section 84. Section 447.409, Florida Statutes, is
25 amended to read:

26 447.409 Records.--All records that ~~which~~ are relevant
27 to, or have a bearing upon, any issue or issues raised by the
28 proceedings conducted by the special magistrate ~~master~~ shall
29 be made available to the special magistrate ~~master~~ by a
30 request in writing to any of the parties to the impasse
31 proceedings. Notice of such request must ~~shall~~ be furnished

1 to all parties. Any such records that ~~which~~ are made
2 available to the special magistrate must ~~master shall~~ also be
3 made available to any other party to the impasse proceedings,
4 upon written request.

5 Section 85. Subsections (1), (2), (3), (4), (5), and
6 (6) of section 475.011, Florida Statutes, are amended to read:

7 475.011 Exemptions.--This part does not apply to:

8 (1) Any person acting as an attorney in fact for the
9 purpose of the execution of contracts or conveyances only; as
10 an attorney at law within the scope of her or his duties as
11 such; as a certified public accountant, as defined in chapter
12 473, within the scope of her or his duties as such; as the
13 personal representative, receiver, trustee, or general or
14 special magistrate ~~master~~ under, or by virtue of, an
15 appointment by will or by order of a court of competent
16 jurisdiction; or as trustee under a deed of trust, or under a
17 trust agreement, the ultimate purpose and intent whereof is
18 charitable, is philanthropic, or provides for those having a
19 natural right to the bounty of the donor or trustor.†

20 (2) Any individual, corporation, partnership, trust,
21 joint venture, or other entity which sells, exchanges, or
22 leases its own real property; however, this exemption shall
23 not be available if and to the extent that an agent, employee,
24 or independent contractor paid a commission or other
25 compensation strictly on a transactional basis is employed to
26 make sales, exchanges, or leases to or with customers in the
27 ordinary course of an owner's business of selling, exchanging,
28 or leasing real property to the public.†

29 (3) Any employee of a public utility, a rural electric
30 cooperative, a railroad, or a state or local governmental
31 agency who acts within the scope of her or his employment, for

1 which no compensation in addition to the employee's salary is
2 paid, to buy, sell, appraise, exchange, rent, auction, or
3 lease any real property or any interest in real property for
4 the use of her or his employer.†

5 (4) Any salaried employee of an owner, or of a
6 registered broker for an owner, of an apartment community who
7 works in an onsite rental office of the apartment community in
8 a leasing capacity.†

9 (5) Any person employed for a salary as a manager of a
10 condominium or cooperative apartment complex as a result of
11 any activities or duties which the person may have in relation
12 to the renting of individual units within such condominium or
13 cooperative apartment complex if rentals arranged by the
14 person are for periods no greater than 1 year.†

15 (6) Any person, partnership, corporation, or other
16 legal entity which, for another and for compensation or other
17 valuable consideration, sells, offers to sell, advertises for
18 sale, buys, offers to buy, or negotiates the sale or purchase
19 of radio, television, or cable enterprises licensed and
20 regulated by the Federal Communications Commission pursuant to
21 the Communications Act of 1934. However, if the sale or
22 purchase of the radio, television, or cable enterprise
23 involves the sale or lease of land, buildings, fixtures, and
24 all other improvements to the land, a broker or salesperson
25 licensed under this chapter shall be retained for the portion
26 of the transaction which includes the land, buildings,
27 fixtures, and all other improvements to the land.†~~or~~

28 Section 86. Paragraphs (d), (f), (g), (h), and (j) of
29 subsection (5) of section 489.127, Florida Statutes, are
30 amended to read:

31 489.127 Prohibitions; penalties.--

1 (5) Each county or municipality may, at its option,
2 designate one or more of its code enforcement officers, as
3 defined in chapter 162, to enforce, as set out in this
4 subsection, the provisions of subsection (1) and s. 489.132(1)
5 against persons who engage in activity for which a county or
6 municipal certificate of competency or license or state
7 certification or registration is required.

8 (d) The act for which the citation is issued shall be
9 ceased upon receipt of the citation; and the person charged
10 with the violation shall elect either to correct the violation
11 and pay the civil penalty in the manner indicated on the
12 citation or, within 10 days after ~~of~~ receipt of the citation,
13 exclusive of weekends and legal holidays, request an
14 administrative hearing before the enforcement or licensing
15 board or designated special magistrate ~~master~~ to appeal the
16 issuance of the citation by the code enforcement officer.

17 1. Hearings shall be held before an enforcement or
18 licensing board or designated special magistrate ~~master~~ as
19 established by s. 162.03(2), and such hearings shall be
20 conducted pursuant to the requirements of ss. 162.07 and
21 162.08.

22 2. Failure of a violator to appeal the decision of the
23 code enforcement officer within the time period set forth in
24 this paragraph shall constitute a waiver of the violator's
25 right to an administrative hearing. A waiver of the right to
26 an administrative hearing shall be deemed an admission of the
27 violation, and penalties may be imposed accordingly.

28 3. If the person issued the citation, or his or her
29 designated representative, shows that the citation is invalid
30 or that the violation has been corrected prior to appearing
31 before the enforcement or licensing board or designated

1 special magistrate ~~master~~, the enforcement or licensing board
2 or designated special magistrate ~~master~~ may dismiss the
3 citation unless the violation is irreparable or irreversible.

4 4. Each day a willful, knowing violation continues
5 shall constitute a separate offense under the provisions of
6 this subsection.

7 (f) If the enforcement or licensing board or
8 designated special magistrate ~~master~~ finds that a violation
9 exists, the enforcement or licensing board or designated
10 special magistrate ~~master~~ may order the violator to pay a
11 civil penalty of not less than the amount set forth on the
12 citation but not more than \$1,000 per day for each violation.
13 In determining the amount of the penalty, the enforcement or
14 licensing board or designated special magistrate ~~master~~ shall
15 consider the following factors:

- 16 1. The gravity of the violation.
17 2. Any actions taken by the violator to correct the
18 violation.
19 3. Any previous violations committed by the violator.

20 (g) Upon written notification by the code enforcement
21 officer that a violator had not contested the citation or paid
22 the civil penalty within the timeframe allowed on the
23 citation, or if a violation has not been corrected within the
24 timeframe set forth on the notice of violation, the
25 enforcement or licensing board or the designated special
26 magistrate ~~master~~ shall enter an order ordering the violator
27 to pay the civil penalty set forth on the citation or notice
28 of violation, and a hearing shall not be necessary for the
29 issuance of such order.

30 (h) A certified copy of an order imposing a civil
31 penalty against an uncertified contractor may be recorded in

1 the public records and thereafter shall constitute a lien
2 against any real or personal property owned by the violator.
3 Upon petition to the circuit court, such order may be enforced
4 in the same manner as a court judgment by the sheriffs of this
5 state, including a levy against personal property; however,
6 such order shall not be deemed to be a court judgment except
7 for enforcement purposes. A civil penalty imposed pursuant to
8 this part shall continue to accrue until the violator comes
9 into compliance or until judgment is rendered in a suit to
10 foreclose on a lien filed pursuant to this subsection,
11 whichever occurs first. After 3 months following ~~from~~ the
12 filing of any such lien which remains unpaid, the enforcement
13 board or licensing board or designated special magistrate
14 ~~master~~ may authorize the local governing body's attorney to
15 foreclose on the lien. No lien created pursuant to the
16 provisions of this part may be foreclosed on real property
17 which is a homestead under s. 4, Art. X of the State
18 Constitution.

19 (j) An aggrieved party, including the local governing
20 body, may appeal a final administrative order of an
21 enforcement board or licensing board or designated special
22 magistrate ~~master~~ to the circuit court. Such an appeal shall
23 not be a hearing de novo but shall be limited to appellate
24 review of the record created before the enforcement board or
25 licensing board or designated special magistrate ~~master~~. An
26 appeal shall be filed within 30 days after ~~of the~~ execution of
27 the order to be appealed.

28 Section 87. Paragraphs (d), (f), (g), (h), and (j) of
29 subsection (4) of section 489.531, Florida Statutes, are
30 amended to read:

31 489.531 Prohibitions; penalties.--

1 (4)

2 (d) The act for which the citation is issued shall be
3 ceased upon receipt of the citation; and the person charged
4 with the violation shall elect either to correct the violation
5 and pay the civil penalty in the manner indicated on the
6 citation or, within 10 days after ~~of~~ receipt of the citation,
7 exclusive of weekends and legal holidays, request an
8 administrative hearing before the enforcement or licensing
9 board or designated special magistrate ~~master~~ to appeal the
10 issuance of the citation by the code enforcement officer.

11 1. Hearings shall be held before an enforcement or
12 licensing board or designated special magistrate ~~master~~ as
13 established by s. 162.03(2) and such hearings shall be
14 conducted pursuant to ss. 162.07 and 162.08.

15 2. Failure of a violator to appeal the decision of the
16 code enforcement officer within the time period set forth in
17 this paragraph shall constitute a waiver of the violator's
18 right to an administrative hearing. A waiver of the right to
19 administrative hearing shall be deemed an admission of the
20 violation and penalties may be imposed accordingly.

21 3. If the person issued the citation, or his or her
22 designated representative, shows that the citation is invalid
23 or that the violation has been corrected prior to appearing
24 before the enforcement or licensing board or designated
25 special magistrate ~~master~~, the enforcement or licensing board
26 or designated special magistrate ~~master~~ shall dismiss the
27 citation unless the violation is irreparable or irreversible.

28 4. Each day a willful, knowing violation continues
29 shall constitute a separate offense under the provisions of
30 this subsection.

31

1 (f) If the enforcement or licensing board or
2 designated special magistrate ~~master~~ finds that a violation
3 exists, the enforcement or licensing board or designated
4 special magistrate ~~master~~ may order the violator to pay a
5 civil penalty of not less than the amount set forth on the
6 citation but not more than \$500 per day for each violation.
7 In determining the amount of the penalty, the enforcement or
8 licensing board or designated special magistrate ~~master~~ shall
9 consider the following factors:

- 10 1. The gravity of the violation.
11 2. Any actions taken by the violator to correct the
12 violation.
13 3. Any previous violations committed by the violator.

14 (g) Upon written notification by the code enforcement
15 officer that a violator had not contested the citation or paid
16 the civil penalty within the timeframe allowed on the
17 citation, or if a violation has not been corrected within the
18 timeframe set forth on the notice of violation, the
19 enforcement or licensing board or the designated special
20 magistrate ~~master~~ shall enter an order ordering the violator
21 to pay the civil penalty set forth on the citation or notice
22 of violation, and a hearing shall not be necessary for the
23 issuance of such order.

24 (h) A certified copy of an order imposing a civil
25 penalty against an uncertified contractor may be recorded in
26 the public records and thereafter shall constitute a lien
27 against any real or personal property owned by the violator.
28 Upon petition to the circuit court, such order may be enforced
29 in the same manner as a court judgment by the sheriffs of this
30 state, including a levy against personal property; however,
31 such order shall not be deemed to be a court judgment except

1 for enforcement purposes. A civil penalty imposed pursuant to
2 this part shall continue to accrue until the violator comes
3 into compliance or until judgment is rendered in a suit to
4 foreclose on a lien filed pursuant to this section, whichever
5 occurs first. After 3 months following ~~from~~ the filing of any
6 such lien which remains unpaid, the enforcement or licensing
7 board or designated special magistrate ~~master~~ may authorize
8 the local governing body's attorney to foreclose on the lien.
9 No lien created pursuant to the provisions of this part may be
10 foreclosed on real property which is a homestead under s. 4,
11 Art. X of the State Constitution.

12 (j) An aggrieved party, including the local governing
13 body, may appeal a final administrative order of an
14 enforcement or licensing board or ~~special~~ designated special
15 magistrate ~~master~~ to the circuit court. Such an appeal shall
16 not be a hearing de novo but shall be limited to appellate
17 review of the record created before the enforcement or
18 licensing board or designated special master. An appeal shall
19 be filed within 30 days of the execution of the order to be
20 appealed.

21 Section 88. Subsection (1) of section 496.420, Florida
22 Statutes, is amended to read:

23 496.420 Civil remedies and enforcement.--

24 (1) In addition to other remedies authorized by law,
25 the department may bring a civil action in circuit court to
26 enforce ss. 496.401-496.424 or s. 496.426. Upon a finding that
27 any person has violated any of these sections, a court may
28 make any necessary order or enter a judgment including, but
29 not limited to, a temporary or permanent injunction, a
30 declaratory judgment, the appointment of a general or special
31 magistrate ~~master~~ or receiver, the sequestration of assets,

1 the reimbursement of persons from whom contributions have been
2 unlawfully solicited, the distribution of contributions in
3 accordance with the charitable or sponsor purpose expressed in
4 the registration statement or in accordance with the
5 representations made to the person solicited, the
6 reimbursement of the department for investigative costs,
7 attorney's fees and costs, and any other equitable relief the
8 court finds appropriate. Upon a finding that any person has
9 violated any provision of ss. 496.401-496.424 or s. 496.426
10 with actual knowledge or knowledge fairly implied on the basis
11 of objective circumstances, a court may enter an order
12 imposing a civil penalty in an amount not to exceed \$10,000
13 per violation.

14 Section 89. Subsection (3) of section 501.207, Florida
15 Statutes, is amended to read:

16 501.207 Remedies of enforcing authority.--

17 (3) Upon motion of the enforcing authority or any
18 interested party in any action brought under subsection (1),
19 the court may make appropriate orders, including, but not
20 limited to, appointment of a general or special magistrate
21 ~~master~~ or receiver or sequestration or freezing of assets, to
22 reimburse consumers or governmental entities found to have
23 been damaged; to carry out a transaction in accordance with
24 the reasonable expectations of consumers or governmental
25 entities; to strike or limit the application of clauses of
26 contracts to avoid an unconscionable result; to order any
27 defendant to divest herself or himself of any interest in any
28 enterprise, including real estate; to impose reasonable
29 restrictions upon the future activities of any defendant to
30 impede her or him from engaging in or establishing the same
31 type of endeavor; to order the dissolution or reorganization

1 of any enterprise; or to grant legal, equitable, or other
2 appropriate relief. The court may assess the expenses of a
3 general or special magistrate ~~master~~ or receiver against a
4 person who has violated, is violating, or is otherwise likely
5 to violate this part. Any injunctive order, whether temporary
6 or permanent, issued by the court shall be effective
7 throughout the state unless otherwise provided in the order.

8 Section 90. Section 501.618, Florida Statutes, is
9 amended to read:

10 501.618 General civil remedies.--The department may
11 bring:

12 (1) An action to obtain a declaratory judgment that an
13 act or practice violates the provisions of this part.

14 (2) An action to enjoin a person who has violated, is
15 violating, or is otherwise likely to violate the provisions of
16 this part.

17 (3) An action on behalf of one or more purchasers for
18 the actual damages caused by an act or practice performed in
19 violation of the provisions of this part. Such an action may
20 include, but is not limited to, an action to recover against a
21 bond, letter of credit, or certificate of deposit as otherwise
22 provided in this part.

23
24 Upon motion of the enforcing authority in any action brought
25 under this section, the court may make appropriate orders,
26 including appointment of a general or special magistrate
27 ~~master~~ or receiver or sequestration of assets, to reimburse
28 consumers found to have been damaged, to carry out a consumer
29 transaction in accordance with the consumer's reasonable
30 expectations, or to grant other appropriate relief. The court
31 may assess the expenses of a general or special magistrate

1 ~~master~~ or receiver against a commercial telephone seller. Any
2 injunctive order, whether temporary or permanent, issued by
3 the court shall be effective throughout the state unless
4 otherwise provided in the order.

5 Section 91. Subsection (6) of section 559.936, Florida
6 Statutes, is amended to read:

7 559.936 Civil penalties; remedies.--

8 (6) Upon motion of the department in any action
9 brought under this part, the court may make appropriate
10 orders, including appointment of a general or special
11 magistrate ~~master~~ or receiver or sequestration of assets, to
12 reimburse consumers found to have been damaged, to carry out a
13 consumer transaction in accordance with the consumer's
14 reasonable expectations, or to grant other appropriate relief.

15 Section 92. Subsection (1) of section 582.23, Florida
16 Statutes, is amended to read:

17 582.23 Performance of work under the regulations by
18 the supervisors.--

19 (1) The supervisors may go upon any lands within the
20 district to determine whether land use regulations adopted are
21 being observed. Where the supervisors of any district shall
22 find that any of the provisions of land use regulations
23 adopted are not being observed on particular lands, and that
24 such nonobservance tends to increase erosion on such lands and
25 is interfering with the prevention or control of erosion on
26 other lands within the district, the supervisors may present
27 to the circuit court for the county or counties within which
28 the lands of the defendant may lie, a petition, duly verified,
29 setting forth the adoption of the land use regulations, the
30 failure of the defendant landowner or occupier to observe such
31 regulations, and to perform particular work, operations, or

1 avoidances as required thereby, and that such nonobservance
2 tends to increase erosion on such lands and is interfering
3 with the prevention or control of erosion on other lands
4 within the district, and praying the court to require the
5 defendant to perform the work, operations, or avoidances
6 within a reasonable time and to order that if the defendant
7 shall fail so to perform the supervisors may go on the land,
8 perform the work or other operations or otherwise bring the
9 condition of such lands into conformity with the requirements
10 of such regulations, and recover the costs and expenses
11 thereof, with interest, from the owner of such land. Upon the
12 presentation of such petition the court shall cause process to
13 be issued against the defendant, and shall hear the case. If
14 it shall appear to the court that testimony is necessary for
15 the proper disposition of the matter, it may take evidence or
16 appoint a special magistrate ~~master~~ to take such evidence as
17 it may direct and report the same to the court within her or
18 his findings of fact and conclusions of law, which shall
19 constitute a part of the proceedings upon which the
20 determination of the court shall be made.

21 Section 93. Subsection (2) of section 631.182, Florida
22 Statutes, is amended to read:

23 631.182 Receiver claims report and claimants
24 objections procedure.--

25 (2) At the hearing, any interested person is entitled
26 to appear. The hearing shall not be de novo but shall be
27 limited to the record as described in s. 631.181(2). The court
28 shall enter an order allowing, allowing in part, or
29 disallowing the claim. Any such order is deemed to be an
30 appealable order. In the interests of judicial economy, the
31 court may appoint a special magistrate ~~master~~ to resolve

1 objections or to perform any particular service required by
2 the court. This subsection shall apply to receivership
3 proceedings commencing prior to, or subsequent to, July 1,
4 1997.

5 Section 94. Subsections (3) and (4) of section
6 631.331, Florida Statutes, are amended to read:

7 631.331 Assessment prima facie correct; notice;
8 payment; proceeding to collect.--

9 (3) If any such member or subscriber fails to pay the
10 assessment within the period specified in the notice, which
11 period shall not be less than 20 days after mailing, the
12 department may obtain an order in the delinquency proceeding
13 requiring the member or subscriber to show cause at a time and
14 place fixed by the court why judgment should not be entered
15 against such member or subscriber for the amount of the
16 assessment, together with all costs. ~~and~~ A copy of the order
17 and a copy of the petition therefor shall be served upon the
18 member or subscriber within the time and in the manner
19 designated in the order.

20 (4) If the subscriber or member after due service of a
21 copy of the order and petition referred to in subsection (3)
22 is made upon her or him:

23 (a) Fails to appear at the time and place specified in
24 the order, judgment shall be entered against her or him as
25 prayed for in the petition; or

26 (b) Appears in the manner and form required by law in
27 response to the order, the court shall hear and determine the
28 matter and enter a judgment in accordance with its decision.
29 In the interests of judicial economy, the court may appoint a
30 special magistrate ~~master~~ to resolve objections or to perform
31 any particular service required by the court. This paragraph

1 shall apply to receivership proceedings commencing prior to,
2 or subsequent to, July 1, 1997.

3 Section 95. Subsection (2) of section 633.052, Florida
4 Statutes, is amended to read:

5 633.052 Ordinances relating to firesafety;
6 definitions; penalties.--

7 (2) A county or municipality that ~~which~~ has created a
8 code enforcement board or special magistrate ~~master~~ system
9 pursuant to chapter 162 may enforce firesafety code violations
10 as provided in chapter 162. The governing body of a county or
11 municipality which has not created a code enforcement board or
12 special magistrate ~~master~~ system for firesafety under chapter
13 162 is authorized to enact ordinances relating to firesafety
14 codes, which ordinances shall provide:

15 (a) That a violation of such an ordinance is a civil
16 infraction.

17 (b) A maximum civil penalty not to exceed \$500.

18 (c) A civil penalty of less than the maximum civil
19 penalty if the person who has committed the civil infraction
20 does not contest the citation.

21 (d) For the issuance of a citation by an officer who
22 has probable cause to believe that a person has committed a
23 violation of an ordinance relating to firesafety.

24 (e) For the contesting of a citation in the county
25 court.

26 (f) Such procedures and provisions necessary to
27 implement any ordinances enacted under the authority of this
28 section.

29 Section 96. Subsection (2) of section 744.369, Florida
30 Statutes, is amended to read:

31 744.369 Judicial review of guardianship reports.--

1 (2) The court may appoint general or special
2 magistrate masters to assist the court in its review function.
3 The court may require the general or special magistrate master
4 to conduct random field audits.

5 Section 97. Subsection (11) of section 760.11, Florida
6 Statutes, is amended to read:

7 760.11 Administrative and civil remedies;
8 construction.--

9 (11) If a complaint is within the jurisdiction of the
10 commission, the commission shall simultaneously with its other
11 statutory obligations attempt to eliminate or correct the
12 alleged discrimination by informal methods of conference,
13 conciliation, and persuasion. Nothing said or done in the
14 course of such informal endeavors may be made public or used
15 as evidence in a subsequent civil proceeding, trial, or
16 hearing. The commission may initiate dispute resolution
17 procedures, including voluntary arbitration, by special
18 magistrates masters or mediators. The commission may adopt
19 rules as to the qualifications of persons who may serve as
20 special magistrates masters and mediators.

21 Section 98. Subsection (1) of section 837.011, Florida
22 Statutes, is amended to read:

23 837.011 Definitions.--In this chapter, unless a
24 different meaning plainly is required:

25 (1) "Official proceeding" means a proceeding heard, or
26 which may be or is required to be heard, before any
27 legislative, judicial, administrative, or other governmental
28 agency or official authorized to take evidence under oath,
29 including any referee, general or special magistrate master in
30 chancery, administrative law judge, hearing officer, hearing
31 examiner, commissioner, notary, or other person taking

1 testimony or a deposition in connection with any such
2 proceeding.

3 Section 99. Subsection (4) of section 838.014, Florida
4 Statutes, is amended to read:

5 838.014 Definitions.--For the purposes of this
6 chapter, unless a different meaning plainly is required:

7 (4) "Public servant" means any public officer, agent,
8 or employee of government, whether elected or appointed,
9 including, but not limited to, any executive, legislative, or
10 judicial officer; any person who holds an office or position
11 in a political party or political party committee, whether
12 elected or appointed; and any person participating as a
13 general or special magistrate ~~master~~, receiver, auditor,
14 juror, arbitrator, umpire, referee, consultant, administrative
15 law judge, hearing officer, or hearing examiner, or person
16 acting on behalf of any of these, in performing a governmental
17 function; but the term does not include witnesses. Such term
18 shall include a candidate for election or appointment to any
19 such office, including any individual who seeks or intends to
20 occupy any such office. It shall include any person appointed
21 to any of the foregoing offices or employments before and
22 after he or she qualifies.

23 Section 100. Section 839.17, Florida Statutes, is
24 amended to read:

25 839.17 Misappropriation of moneys by commissioners to
26 make sales.--Any commissioner or general or special magistrate
27 ~~master in chancery~~, having received the purchase money or the
28 securities resulting from any of the sales authorized by law,
29 who shall fail to deliver such moneys and securities, or
30 either of them, to the executor or administrator, or the
31 person entitled to receive the same, upon the order of the

1 court, unless she or he is rendered unable to do so by some
2 cause not attributable to her or his own default or neglect,
3 shall be fined in a sum equal to the amount received from the
4 purchaser, and commits ~~shall be guilty~~ of a felony of the
5 second degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 Section 101. Paragraph (a) of subsection (3) of
8 section 916.107, Florida Statutes, is amended to read:

9 916.107 Rights of forensic clients.--

10 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

11 (a) A client committed to the department pursuant to
12 this act shall be asked to give express and informed written
13 consent for treatment. If a client in a forensic facility
14 refuses such treatment as is deemed necessary by the client's
15 multidisciplinary treatment team at the forensic facility for
16 the appropriate care of the client and the safety of the
17 client or others, such treatment may be provided under the
18 following circumstances:

19 1. In an emergency situation in which there is
20 immediate danger to the safety of the client or others, such
21 treatment may be provided upon the written order of a
22 physician for a period not to exceed 48 hours, excluding
23 weekends and legal holidays. If, after the 48-hour period,
24 the client has not given express and informed consent to the
25 treatment initially refused, the administrator or designee of
26 the forensic facility shall, within 48 hours, excluding
27 weekends and legal holidays, petition the committing court or
28 the circuit court serving the county in which the facility is
29 located, at the option of the facility administrator or
30 designee, for an order authorizing the continued treatment of
31 the client. In the interim, treatment may be continued

1 without the consent of the client upon the continued written
2 order of a physician who has determined that the emergency
3 situation continues to present a danger to the safety of the
4 client or others.

5 2. In a situation other than an emergency situation,
6 the administrator or designee of the forensic facility shall
7 petition the court for an order authorizing the treatment to
8 the client. The order shall allow such treatment for a period
9 not to exceed 90 days from the date of the entry of the order.
10 Unless the court is notified in writing that the client has
11 provided express and informed consent in writing or that the
12 client has been discharged by the committing court, the
13 administrator or designee shall, prior to the expiration of
14 the initial 90-day order, petition the court for an order
15 authorizing the continuation of treatment for another 90-day
16 period. This procedure shall be repeated until the client
17 provides consent or is discharged by the committing court.

18 3. At the hearing on the issue of whether the court
19 should enter an order authorizing treatment for which a client
20 has refused to give express and informed consent, the court
21 shall determine by clear and convincing evidence that the
22 client is mentally ill, retarded, or autistic as defined in
23 this chapter, that the treatment not consented to is essential
24 to the care of the client, and that the treatment not
25 consented to is not experimental and does not present an
26 unreasonable risk of serious, hazardous, or irreversible side
27 effects. In arriving at the substitute judgment decision, the
28 court must consider at least the following factors:

29 a. The client's expressed preference regarding
30 treatment;

31 b. The probability of adverse side effects;

- 1 c. The prognosis without treatment; and
2 d. The prognosis with treatment.

3
4 The hearing shall be as convenient to the client as may be
5 consistent with orderly procedure and shall be conducted in
6 physical settings not likely to be injurious to the client's
7 condition. The court may appoint a general or special
8 magistrate ~~master~~ to preside at the hearing. The client or the
9 client's guardian, and the representative, shall be provided
10 with a copy of the petition and the date, time, and location
11 of the hearing. The client has the right to have an attorney
12 represent him or her at the hearing, and, if the client is
13 indigent, the court shall appoint the office of the public
14 defender to represent the client at the hearing. The client
15 may testify or not, as he or she chooses, and has the right to
16 cross-examine witnesses and may present his or her own
17 witnesses.

18 Section 102. Subsection (11) of section 938.30,
19 Florida Statutes, is amended to read:

20 938.30 Court-imposed financial obligations in criminal
21 cases; supplementary proceedings.--

22 (11) The court may refer any proceeding under this
23 section to a special magistrate ~~master~~ who shall report
24 findings and make recommendations to the court. The court
25 shall act on such recommendations within a reasonable amount
26 of time.

27 Section 103. Subsection (3) of section 945.43, Florida
28 Statutes, is amended to read:

29 945.43 Admission of inmate to mental health treatment
30 facility.--

31

