

By Senator Campbell

32-1035-03

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.

30  
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 (e) 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           (e) 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, or employees of a  
29 bail bond agent or a bail bond business and shall not directly  
30 or indirectly receive any benefits from the execution of any  
31 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  
31

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. Subsection (1) of section 933.07, Florida  
15 Statutes, is amended to read:

16 933.07 Issuance of search warrants.--

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

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

31

1           933.10 Execution of search warrant during day or  
2 night.--A search warrant issued under ~~the provisions of this~~  
3 chapter may, if expressly authorized in such warrant by the  
4 judge ~~or magistrate issuing the same~~, be executed by being  
5 served either in the daytime or in the nighttime, as the  
6 exigencies of the occasion may demand or require.

7           Section 39. Section 933.101, Florida Statutes, is  
8 amended to read:

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

12           Section 40. Section 933.13, Florida Statutes, is  
13 amended to read:

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

21           Section 41. Subsections (1), (3), and (4) of section  
22 933.14, Florida Statutes, are amended to read:

23           933.14 Return of property taken under search  
24 warrant.--

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

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

28 (3) No pistol or firearm taken by any officer with a  
29 search warrant or without a search warrant upon a view by the  
30 officer of a breach of the peace shall be returned except  
31

1 pursuant to an order of a trial ~~circuit judge or a county~~  
2 court judge.

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

19 Section 42. Section 939.02, Florida Statutes, is  
20 amended to read:

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

25 Section 43. Section 939.14, Florida Statutes, is  
26 amended to read:

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

1 an indictment found against such person, the costs of such  
2 committing trial shall not be paid by the county, except the  
3 costs for executing the warrant.

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

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



1 upon which the warrant is issued shall be attached to the  
2 warrant.

3 Section 45. Section 941.14, Florida Statutes, is  
4 amended to read:

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

16 Section 46. Section 941.15, Florida Statutes, is  
17 amended to read:

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

31

1           Section 47. Section 941.17, Florida Statutes, is  
2 amended to read:

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

12           Section 48. Section 941.18, Florida Statutes, is  
13 amended to read:

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

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

25           947.141 Violations of conditional release, control  
26 release, or conditional medical release or addiction-recovery  
27 supervision.--

28           (2) Upon the arrest on a felony charge of an offender  
29 who is on release supervision under s. 947.1405, s. 947.146,  
30 s. 947.149, or s. 944.4731, the offender must be detained  
31 without bond until the initial appearance of the offender at

1 which a judicial determination of probable cause is made. If  
2 the trial court judge ~~magistrate~~ determines that there was no  
3 probable cause for the arrest, the offender may be released.  
4 If the trial court judge ~~magistrate~~ determines that there was  
5 probable cause for the arrest, such determination also  
6 constitutes reasonable grounds to believe that the offender  
7 violated the conditions of the release. Within 24 hours after  
8 the trial court judge's ~~magistrate's~~ finding of probable  
9 cause, the detention facility administrator or designee shall  
10 notify the commission and the department of the finding and  
11 transmit to each a facsimile copy of the probable cause  
12 affidavit or the sworn offense report upon which the trial  
13 court judge's ~~magistrate's~~ probable cause determination is  
14 based. The offender must continue to be detained without bond  
15 for a period not exceeding 72 hours excluding weekends and  
16 holidays after the date of the probable cause determination,  
17 pending a decision by the commission whether to issue a  
18 warrant charging the offender with violation of the conditions  
19 of release. Upon the issuance of the commission's warrant, the  
20 offender must continue to be held in custody pending a  
21 revocation hearing held in accordance with this section.

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

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

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

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

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

1 up to the amount of the tolled period supervision. If the  
2 court dismisses an affidavit alleging a violation of probation  
3 or community control, the offender's probation or community  
4 control shall continue as previously imposed, and the offender  
5 shall receive credit for all tolled time against his or her  
6 term of probation or community control.

7 Section 51. Paragraph (b) of subsection (4) of section  
8 985.05, Florida Statutes, is amended to read:

9 985.05 Court records.--

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

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

17 Section 52. Section 56.071, Florida Statutes, is  
18 amended to read:

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

1 vendee under a retained title contract or conditional sales  
2 contract.

3 Section 53. Subsections (2), (7), and (10) of section  
4 56.29, Florida Statutes, are amended to read:

5 56.29 Proceedings supplementary.--

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

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

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

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

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

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

31

1           (a) The initial term of the contract and cooperative  
2 agreements is for 5 years. The subsequent term of the contract  
3 and cooperative agreements is for 3 years, with the option of  
4 two 1-year renewal periods, at the sole discretion of the  
5 department.

6           (b) The duties and responsibilities of the Florida  
7 Association of Court Clerks, the depositories, and the  
8 department.

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

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

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

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



1 format as prescribed by the department. The Florida  
2 Association of Court Clerks shall contract with a certified  
3 public accounting firm, selected by the Florida Association of  
4 Court Clerks and the department, to audit and certify  
5 quarterly to the department all claims for expenditures  
6 submitted by the depositories for Title IV-D reimbursement.

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

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

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

25 Section 55. Section 64.061, Florida Statutes, is  
26 amended to read:

27 64.061 Partition of property; commissioners; special  
28 magistrate ~~master~~.--

29 (1) APPOINTMENT AND REMOVAL.--When a judgment of  
30 partition is made, the court shall appoint three suitable  
31 persons as commissioners to make the partition. They shall be

1 selected by the court unless agreed on by the parties. They  
2 may be removed by the court for good cause and others  
3 appointed in their places.

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

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

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

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

3           65.061 Quieting title; additional remedy.--

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

9           Section 57. Section 69.051, Florida Statutes, is  
10 amended to read:

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

17           Section 58. Section 70.51, Florida Statutes, is  
18 amended to read:

19           70.51 Land use and environmental dispute resolution.--

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

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

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

30           (b) "Development permit" means any building permit,  
31 zoning permit, subdivision approval, certification, special

1 exception, variance, or any other similar action of local  
2 government, as well as any permit authorized to be issued  
3 under state law by state, regional, or local government which  
4 has the effect of authorizing the development of real property  
5 including, but not limited to, programs implementing chapters  
6 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.

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

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

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

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

30 (g) "Land" or "real property" means land and includes  
31 any appurtenances and improvements to the land, including any

1 other relevant real property in which the owner had a relevant  
2 interest.

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

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

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

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

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

1 entity must maintain in its files relating to particular  
2 development orders a mailing list of persons who have  
3 presented oral or written testimony and who have requested  
4 notice.

5 (6) The request for relief must contain:

6 (a) A brief statement of the owner's proposed use of  
7 the property.

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

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

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

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

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

28 (9) By requesting relief under this section, the owner  
29 consents to grant the special magistrate ~~master~~ and the  
30 parties reasonable access to the real property with advance  
31

1 notice at a time and in a manner acceptable to the owner of  
2 the real property.

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

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

31

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

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

28           (13) Each party must make efforts to assure that those  
29 persons qualified by training or experience necessary to  
30 address issues raised by the request or by the special  
31 magistrate ~~master~~ and further qualified to address



1 alternatives, variances, and other types of modifications to  
2 the development order or enforcement action are present at the  
3 hearing.

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

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

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

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

26 (b) Any governmental entity that is added by the  
27 special magistrate ~~master~~ as a party must file a response to  
28 the request for relief prior to the hearing but not later than  
29 15 days following its admission.

30 (c) Any party may incorporate in the response to the  
31 request for relief a request to be dropped from the

1 proceeding. The request to be dropped must set forth facts  
2 and circumstances relevant to aid the special magistrate  
3 ~~master~~ in ruling on the request. All requests to be dropped  
4 must be disposed of prior to conducting any hearings on the  
5 merits of the request for relief.

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

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

30 (b) If an acceptable solution is not reached by the  
31 parties after the special magistrate's ~~master's~~ attempt at

1 mediation, the special magistrate ~~master~~ shall consider the  
2 facts and circumstances set forth in the request for relief  
3 and any responses and any other information produced at the  
4 hearing in order to determine whether the action by the  
5 governmental entity or entities is unreasonable or unfairly  
6 burdens the real property.

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

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

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

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

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

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

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

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

17 (g) Uses authorized for and restrictions placed on  
18 similar property.

19 (h) Any other information determined relevant by the  
20 special magistrate ~~master~~.

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

24 (a) If the special magistrate ~~master~~ finds that the  
25 development order at issue, or the development order or  
26 enforcement action in combination with the actions or  
27 regulations of other governmental entities, is not  
28 unreasonable or does not unfairly burden the use of the  
29 owner's property, the special magistrate ~~master~~ must recommend  
30 that the development order or enforcement action remain  
31

1 undisturbed and the proceeding shall end, subject to the  
2 owner's retention of all other available remedies.

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

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

17 2. Increases or modifications in the density,  
18 intensity, or use of areas of development.

19 3. The transfer of development rights.

20 4. Land swaps or exchanges.

21 5. Mitigation, including payments in lieu of onsite  
22 mitigation.

23 6. Location on the least sensitive portion of the  
24 property.

25 7. Conditioning the amount of development or use  
26 permitted.

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

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

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

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

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

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

20           (a) Accept the recommendation of the special  
21 magistrate ~~master~~ as submitted and proceed to implement it by  
22 development agreement, when appropriate, or by other method,  
23 in the ordinary course and consistent with the rules and  
24 procedures of that governmental entity. However, the decision  
25 of the governmental entity to accept the recommendation of the  
26 special magistrate ~~master~~ with respect to granting a  
27 modification, variance, or special exception to the  
28 application of statutes, rules, regulations, or ordinances as  
29 they would otherwise apply to the subject property does not  
30 require an owner to duplicate previous processes in which the  
31

1 owner has participated in order to effectuate the granting of  
2 the modification, variance, or special exception;

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

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

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

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

31

1           (24) The procedure created by this section is not  
2 itself, nor does it create, a judicial cause of action. Once  
3 the governmental entity acts on the special magistrate's  
4 ~~master's~~ recommendation, the owner may elect to file suit in a  
5 court of competent jurisdiction. Invoking the procedures of  
6 this section is not a condition precedent to filing a civil  
7 action.

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

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

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



1 shall notify the Department of Legal Affairs in writing as to  
2 what action the governmental entity took on the special  
3 magistrate's ~~master's~~ recommendation.

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

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

26 (30) This section applies only to development orders  
27 issued, modified, or amended, or to enforcement actions  
28 issued, on or after October 1, 1995.

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

31 92.142 Witnesses; pay.--

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

13           Section 60. Section 112.41, Florida Statutes, is  
14 amended to read:

15           112.41 Contents of order of suspension; Senate select  
16 committee; special magistrate ~~examiner~~.--

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

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

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

29           (4) The Senate may, in lieu of the use of a select  
30 committee, appoint a ~~special examiner or a~~ special magistrate

31

1 ~~master~~ to receive the evidence and make recommendations to the  
2 Senate.

3 Section 61. Section 112.43, Florida Statutes, is  
4 amended to read:

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

28 Section 62. Section 112.47, Florida Statutes, is  
29 amended to read:

30 112.47 Hearing before Senate select committee;  
31 notice.--The Senate shall afford each suspended official a

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

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

19 162.03 Applicability.--

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

31

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

3           162.06 Enforcement procedure.--

4           (5) If the owner of property that ~~which~~ is subject to  
5 an enforcement proceeding before an enforcement board, special  
6 magistrate ~~master~~, or court transfers ownership of such  
7 property between the time the initial pleading was served and  
8 the time of the hearing, such owner shall:

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

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

14           (c) Disclose, in writing, to the prospective  
15 transferee that the new owner will be responsible for  
16 compliance with the applicable code and with orders issued in  
17 the code enforcement proceeding.

18           (d) File a notice with the code enforcement official  
19 of the transfer of the property, with the identity and address  
20 of the new owner and copies of the disclosures made to the new  
21 owner, within 5 days after the date of the transfer.

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

29           Section 65. Paragraph (d) of subsection (2) of section  
30 162.09, Florida Statutes, is amended to read:

31           162.09 Administrative fines; costs of repair; liens.--

1 (2)

2 (d) A county or a municipality having a population  
3 equal to or greater than 50,000 may adopt, by a vote of at  
4 least a majority plus one of the entire governing body of the  
5 county or municipality, an ordinance that gives code  
6 enforcement boards or special magistrates ~~masters~~, or both,  
7 authority to impose fines in excess of the limits set forth in  
8 paragraph (a). Such fines shall not exceed \$1,000 per day per  
9 violation for a first violation, \$5,000 per day per violation  
10 for a repeat violation, and up to \$15,000 per violation if the  
11 code enforcement board or special magistrate ~~master~~ finds the  
12 violation to be irreparable or irreversible in nature. In  
13 addition to such fines, a code enforcement board or special  
14 magistrate ~~master~~ may impose additional fines to cover all  
15 costs incurred by the local government in enforcing its codes  
16 and all costs of repairs pursuant to subsection (1). Any  
17 ordinance imposing such fines shall include criteria to be  
18 considered by the code enforcement board or special magistrate  
19 ~~master~~ in determining the amount of the fines, including, but  
20 not limited to, those factors set forth in paragraph (b).

21 Section 66. Section 173.09, Florida Statutes, is  
22 amended to read:

23 173.09 Judgment for complainant; special magistrate's  
24 ~~master's~~ sale; complainant may purchase and later sell.--

25 (1) Any such decree shall direct the special  
26 magistrate ~~master~~ thereby appointed to sell the several  
27 parcels of land separately to the highest and best bidder for  
28 cash (or, at the option of complainant, to the extent of  
29 special assessments included in such judgment, for bonds or  
30 interest coupons issued by complainant), at public outcry at  
31 the courthouse door of the county in which such suit is

1 pending, or at such point or place in the complainant  
2 municipality as the court in such final decree may direct,  
3 after having advertised such sale (which advertisement may  
4 include all lands so ordered sold) once each week for 2  
5 consecutive weeks in some newspaper published in the  
6 municipality ~~city or town~~ in which ~~is~~ the complainant arose  
7 or, if there is no such newspaper, in a newspaper published in  
8 the county in which the suit is pending, and if all the lands  
9 so advertised for sale be not sold on the day specified in  
10 such advertisement, such sale shall be continued from day to  
11 day until the sale of all such land is completed.

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

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

30 Section 67. Section 173.10, Florida Statutes, is  
31 amended to read:

1           173.10 Judgment for complainant; court may order  
2 payment of other taxes or sale subject to taxes; special  
3 magistrate's ~~master's~~ conveyances.--

4           (1) In the judgment or decree the court may, in its  
5 discretion, direct the payment of all unpaid state and county  
6 taxes and also all unpaid municipal ~~city or town~~ taxes and  
7 special assessments or installments thereof, imposed or  
8 falling due since the institution of the suit, with the  
9 penalties and costs, out of the proceeds of such foreclosure  
10 sale, or it may order and direct such sale or sales to be made  
11 subject to such state, and county, and municipal ~~city or town~~  
12 taxes and special assessments.

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

21           Section 68. Section 173.11, Florida Statutes, is  
22 amended to read:

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



1           Section 69. Section 173.12, Florida Statutes, is  
2 amended to read:

3           173.12 Lands may be redeemed prior to sale.--Any  
4 person interested in any lands included in the suit may redeem  
5 such lands at any time prior to the sale thereof by the  
6 special magistrate ~~master~~ by paying into the registry of the  
7 court the amount due for delinquent taxes, interest and  
8 penalties thereon, and such proportionate part of the expense,  
9 attorney's fees, and costs of suit as may have been fixed by  
10 the court in its decree of sale, or by written stipulation of  
11 complainant, and thereupon such lands shall be dismissed from  
12 the cause.

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

15           194.013 Filing fees for petitions; disposition;  
16 waiver.--

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

1 special magistrate ~~master~~ for the time involved in hearing the  
2 joint petition and shall not exceed \$5 per parcel. Said fee  
3 is to be proportionately paid by affected parcel owners.

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

7 194.034 Hearing procedures; rules.--

8 (1)

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

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

31

1           (6) For purposes of hearing joint petitions filed  
2 pursuant to s. 194.011(3)(e), each included parcel shall be  
3 considered by the board as a separate petition. Such separate  
4 petitions shall be heard consecutively by the board. If a  
5 special magistrate ~~master~~ is appointed, such separate  
6 petitions shall all be assigned to the same special magistrate  
7 ~~master~~.

8           Section 72. Section 194.035, Florida Statutes, is  
9 amended to read:

10           194.035 Special magistrates ~~masters~~; property  
11 evaluators.--

12           (1) In counties having a population of more than  
13 75,000, the board shall appoint special magistrates ~~masters~~  
14 for the purpose of taking testimony and making recommendations  
15 to the board, which recommendations the board may act upon  
16 without further hearing. These ~~Such~~ special magistrates  
17 ~~masters~~ may not be elected or appointed officials or employees  
18 of the county but shall be selected from a list of those  
19 qualified individuals who are willing to serve as special  
20 magistrates ~~masters~~. Employees and elected or appointed  
21 officials of a taxing jurisdiction or of the state may not  
22 serve as special magistrates ~~masters~~. The clerk of the board  
23 shall annually notify such individuals or their professional  
24 associations to make known to them that opportunities to serve  
25 as special magistrates ~~masters~~ exist. The Department of  
26 Revenue shall provide a list of qualified special magistrates  
27 ~~masters~~ to any county with a population of 75,000 or less.  
28 Subject to appropriation, the department shall reimburse  
29 counties with a population of 75,000 or less for payments made  
30 to special magistrates ~~masters~~ appointed for the purpose of  
31 taking testimony and making recommendations to the value

1 adjustment board pursuant to this section. The department  
2 shall establish a reasonable range for payments per case to  
3 special magistrates ~~masters~~ based on such payments in other  
4 counties. Requests for reimbursement of payments outside this  
5 range shall be justified by the county. If the total of all  
6 requests for reimbursement in any year exceeds the amount  
7 available pursuant to this section, payments to all counties  
8 shall be prorated accordingly. A special magistrate ~~master~~  
9 appointed to hear issues of exemptions and classifications  
10 shall be a member of The Florida Bar with no less than 5  
11 years' experience in the area of ad valorem taxation. A  
12 special magistrate ~~master~~ appointed to hear issues regarding  
13 the valuation of real estate shall be a state certified real  
14 estate appraiser with not less than 5 years' experience in  
15 real property valuation. A special magistrate ~~master~~ appointed  
16 to hear issues regarding the valuation of tangible personal  
17 property shall be a designated member of a nationally  
18 recognized appraiser's organization with not less than 5  
19 years' experience in tangible personal property valuation. A  
20 special magistrate ~~master~~ need not be a resident of the county  
21 in which he or she serves. A No special magistrate may not  
22 ~~master shall be permitted to~~ represent a person before the  
23 board in any tax year during which he or she has served that  
24 board as a special magistrate ~~master~~. The board shall appoint  
25 special magistrates ~~such masters~~ from the list so compiled  
26 prior to convening of the board. The expense of hearings  
27 before magistrates ~~masters~~ and any compensation of special  
28 magistrates ~~masters~~ shall be borne three-fifths by the board  
29 of county commissioners and two-fifths by the school board.  
30 (2) The value adjustment board of each county may  
31 employ qualified property appraisers or evaluators to appear

1 before the value adjustment board at that meeting of the board  
2 which is held for the purpose of hearing complaints. Such  
3 property appraisers or evaluators shall present testimony as  
4 to the just value of any property the value of which is  
5 contested before the board and shall submit to examination by  
6 the board, the taxpayer, and the property appraiser.

7 Section 73. Section 206.16, Florida Statutes, is  
8 amended to read:

9 206.16 Officer selling property.--

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

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

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

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

20 (d) The nature of the property and the location of the  
21 same.

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

1           Section 74. Section 207.016, Florida Statutes, is  
2 amended to read:

3           207.016 Officer's sale of property or franchise.--

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

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

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

13           (c) The time and place of sale.

14           (d) The nature of the property and the location of the  
15 same.

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

26           Section 75. Section 320.411, Florida Statutes, is  
27 amended to read:

28           320.411 Officer's sale of property or franchise.--

29           (1) No sheriff, receiver, assignee, general or special  
30 magistrate ~~master~~, or other officer shall sell the property or  
31 franchise of any motor carrier for failure to pay taxes,

1 penalties, or interest without first filing with the  
2 department a statement containing the following information:

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

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

7 (c) The time and place of sale.

8 (d) The nature of the property and the location of the  
9 same.

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

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

22 393.11 Involuntary admission to residential  
23 services.--

24 (7) HEARING.--

25 (a) The hearing for involuntary admission shall be  
26 conducted, and the order shall be entered, in the county in  
27 which the person is residing or be as convenient to the person  
28 as may be consistent with orderly procedure. The hearing shall  
29 be conducted in a physical setting not likely to be injurious  
30 to the person's condition.

31

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

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

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

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

25 (f) The petitioning commission may be represented by  
26 counsel at the hearing. The petitioning commission shall have  
27 the right to call witnesses, present evidence, cross-examine  
28 witnesses, and present argument on behalf of the petitioning  
29 commission.

30 (g) All evidence shall be presented according to  
31 chapter 90. The burden of proof shall be on the party



1 alleging the appropriateness of the person's admission to  
2 residential services. The burden of proof shall be by clear  
3 and convincing evidence.

4 (h) All stages of each proceeding shall be  
5 stenographically reported.

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

8 394.467 Involuntary placement.--

9 (6) HEARING ON INVOLUNTARY PLACEMENT.--

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

24 2. The court may appoint a general or special  
25 magistrate ~~master~~ to preside at the hearing. One of the  
26 professionals who executed the involuntary placement  
27 certificate shall be a witness. The patient and the patient's  
28 guardian or representative shall be informed by the court of  
29 the right to an independent expert examination. If the  
30 patient cannot afford such an examination, the court shall  
31 provide for one. The independent expert's report shall be

1 confidential and not discoverable, unless the expert is to be  
2 called as a witness for the patient at the hearing. The  
3 testimony in the hearing must be given under oath, and the  
4 proceedings must be recorded. The patient may refuse to  
5 testify at the hearing.

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

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

28 (d) At the hearing on involuntary placement, the court  
29 shall consider testimony and evidence regarding the patient's  
30 competence to consent to treatment. If the court finds that  
31

1 the patient is incompetent to consent to treatment, it shall  
2 appoint a guardian advocate as provided in s. 394.4598.

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

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

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

25 (b) If the patient continues to meet the criteria for  
26 involuntary placement, the administrator shall, prior to the  
27 expiration of the period during which the treatment facility  
28 is authorized to retain the patient, file a petition  
29 requesting authorization for continued involuntary placement.  
30 The request shall be accompanied by a statement from the  
31 patient's physician or clinical psychologist justifying the

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

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

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

23 (e) If continued involuntary placement is necessary  
24 for a patient admitted while serving a criminal sentence, but  
25 whose sentence is about to expire, or for a patient  
26 involuntarily placed while a minor but who is about to reach  
27 the age of 18, the administrator shall petition the  
28 administrative law judge for an order authorizing continued  
29 involuntary placement.

30 (f) If the patient has been previously found  
31 incompetent to consent to treatment, the administrative law

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

9           Section 78. Subsection (7) of section 397.311, Florida  
10 Statutes, is amended to read:

11           397.311 Definitions.--As used in this chapter, except  
12 part VIII:

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

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

24           397.681 Involuntary petitions; general provisions;  
25 court jurisdiction and right to counsel.--

26           (1) JURISDICTION.--The courts have jurisdiction of  
27 involuntary assessment and stabilization petitions and  
28 involuntary treatment petitions for substance abuse impaired  
29 persons, and such petitions must be filed with the clerk of  
30 the court in the county where the person is located. The  
31 chief judge may appoint a general or special magistrate ~~master~~

1 to preside over all or part of the proceedings. The alleged  
2 impaired person is named as the respondent.

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

5 447.207 Commission; powers and duties.--

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

13 Section 81. Subsections (2), (3), and (4) of section  
14 447.403, Florida Statutes, are amended to read:

15 447.403 Resolution of impasses.--

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

29 (b) If the Governor is the public employer, no special  
30 magistrate ~~master~~ shall be appointed. The parties may proceed  
31

1 directly to the Legislature for resolution of the impasse  
2 pursuant to paragraph (4)(d).

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

25 (4) If either the public employer or the employee  
26 organization does not accept, in whole or in part, the  
27 recommended decision of the special magistrate ~~master~~:

28 (a) The chief executive officer of the governmental  
29 entity involved shall, within 10 days after rejection of a  
30 recommendation of the special magistrate ~~master~~, submit to the  
31 legislative body of the governmental entity involved a copy of

1 the findings of fact and recommended decision of the special  
2 magistrate master, together with the chief executive officer's  
3 recommendations for settling the disputed impasse issues. The  
4 chief executive officer shall also transmit his or her  
5 recommendations to the employee organization.

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

9 (c) The legislative body or a duly authorized  
10 committee thereof shall forthwith conduct a public hearing at  
11 which the parties shall be required to explain their positions  
12 with respect to the rejected recommendations of the special  
13 magistrate master;

14 (d) Thereafter, the legislative body shall take such  
15 action as it deems to be in the public interest, including the  
16 interest of the public employees involved, to resolve all  
17 disputed impasse issues; and

18 (e) Following the resolution of the disputed impasse  
19 issues by the legislative body, the parties shall reduce to  
20 writing an agreement which includes those issues agreed to by  
21 the parties and those disputed impasse issues resolved by the  
22 legislative body's action taken pursuant to paragraph (d). The  
23 agreement shall be signed by the chief executive officer and  
24 the bargaining agent and shall be submitted to the public  
25 employer and to the public employees who are members of the  
26 bargaining unit for ratification. If such agreement is not  
27 ratified by all parties, pursuant to the provisions of s.  
28 447.309, the legislative body's action taken pursuant to the  
29 provisions of paragraph (d) shall take effect as of the date  
30 of such legislative body's action for the remainder of the  
31 first fiscal year which was the subject of negotiations;



1 | however, the legislative body's action shall not take effect  
2 | with respect to those disputed impasse issues which establish  
3 | the language of contractual provisions which could have no  
4 | effect in the absence of a ratified agreement, including, but  
5 | not limited to, preambles, recognition clauses, and duration  
6 | clauses.

7 |         Section 82. Section 447.405, Florida Statutes, is  
8 | amended to read:

9 |         447.405 Factors to be considered by the special  
10 | magistrate ~~master~~.--The special magistrate ~~master~~ shall  
11 | conduct the hearings and render recommended decisions with the  
12 | objective of achieving a prompt, peaceful, and just settlement  
13 | of disputes between the public employee organizations and the  
14 | public employers. The factors, among others, to be given  
15 | weight by the special magistrate ~~master~~ in arriving at a  
16 | recommended decision shall include:

17 |         (1) Comparison of the annual income of employment of  
18 | the public employees in question with the annual income of  
19 | employment maintained for the same or similar work of  
20 | employees exhibiting like or similar skills under the same or  
21 | similar working conditions in the local operating area  
22 | involved.

23 |         (2) Comparison of the annual income of employment of  
24 | the public employees in question with the annual income of  
25 | employment of public employees in similar public employee  
26 | governmental bodies of comparable size within the state.

27 |         (3) The interest and welfare of the public.

28 |         (4) Comparison of peculiarities of employment in  
29 | regard to other trades or professions, specifically with  
30 | respect to:

31 |         (a) Hazards of employment.

- 1 (b) Physical qualifications.
- 2 (c) Educational qualifications.
- 3 (d) Intellectual qualifications.
- 4 (e) Job training and skills.
- 5 (f) Retirement plans.
- 6 (g) Sick leave.
- 7 (h) Job security.
- 8 (5) Availability of funds.

9 Section 83. Section 447.407, Florida Statutes, is  
10 amended to read:

11 447.407 Compensation of mediator and special  
12 magistrate ~~master~~; expenses.--The compensation of the mediator  
13 and special magistrate ~~master~~, and all stenographic and other  
14 expenses, shall be borne equally by the parties.

15 Section 84. Section 447.409, Florida Statutes, is  
16 amended to read:

17 447.409 Records.--All records that ~~which~~ are relevant  
18 to, or have a bearing upon, any issue or issues raised by the  
19 proceedings conducted by the special magistrate ~~master~~ shall  
20 be made available to the special magistrate ~~master~~ by a  
21 request in writing to any of the parties to the impasse  
22 proceedings. Notice of such request must ~~shall~~ be furnished  
23 to all parties. Any such records that ~~which~~ are made  
24 available to the special magistrate ~~master~~ must ~~shall~~ also be  
25 made available to any other party to the impasse proceedings,  
26 upon written request.

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

29 475.011 Exemptions.--This part does not apply to:

- 30 (1) Any person acting as an attorney in fact for the  
31 purpose of the execution of contracts or conveyances only; as

1 an attorney at law within the scope of her or his duties as  
2 such; as a certified public accountant, as defined in chapter  
3 473, within the scope of her or his duties as such; as the  
4 personal representative, receiver, trustee, or general or  
5 special magistrate ~~master~~ under, or by virtue of, an  
6 appointment by will or by order of a court of competent  
7 jurisdiction; or as trustee under a deed of trust, or under a  
8 trust agreement, the ultimate purpose and intent whereof is  
9 charitable, is philanthropic, or provides for those having a  
10 natural right to the bounty of the donor or trustor.†

11 (2) Any individual, corporation, partnership, trust,  
12 joint venture, or other entity which sells, exchanges, or  
13 leases its own real property; however, this exemption shall  
14 not be available if and to the extent that an agent, employee,  
15 or independent contractor paid a commission or other  
16 compensation strictly on a transactional basis is employed to  
17 make sales, exchanges, or leases to or with customers in the  
18 ordinary course of an owner's business of selling, exchanging,  
19 or leasing real property to the public.†

20 (3) Any employee of a public utility, a rural electric  
21 cooperative, a railroad, or a state or local governmental  
22 agency who acts within the scope of her or his employment, for  
23 which no compensation in addition to the employee's salary is  
24 paid, to buy, sell, appraise, exchange, rent, auction, or  
25 lease any real property or any interest in real property for  
26 the use of her or his employer.†

27 (4) Any salaried employee of an owner, or of a  
28 registered broker for an owner, of an apartment community who  
29 works in an onsite rental office of the apartment community in  
30 a leasing capacity.†

31

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

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

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

23           489.127 Prohibitions; penalties.--

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

31

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

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

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 an 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~~ may 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 \$1,000 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 subsection,  
5 whichever occurs first. After 3 months following ~~from~~ the  
6 filing of any such lien which remains unpaid, the enforcement  
7 board or licensing board or designated special magistrate  
8 ~~master~~ may authorize the local governing body's attorney to  
9 foreclose on the lien. No lien created pursuant to the  
10 provisions of this part may be foreclosed on real property  
11 which is a homestead under s. 4, Art. X of the State  
12 Constitution.

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

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

25 489.531 Prohibitions; penalties.--

26 (4)

27 (d) The act for which the citation is issued shall be  
28 ceased upon receipt of the citation; and the person charged  
29 with the violation shall elect either to correct the violation  
30 and pay the civil penalty in the manner indicated on the  
31 citation or, within 10 days after ~~of~~ receipt of the citation,

1 exclusive of weekends and legal holidays, request an  
2 administrative hearing before the enforcement or licensing  
3 board or designated special magistrate ~~master~~ to appeal the  
4 issuance of the citation by the code enforcement officer.

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

9 2. Failure of a violator to appeal the decision of the  
10 code enforcement officer within the time period set forth in  
11 this paragraph shall constitute a waiver of the violator's  
12 right to an administrative hearing. A waiver of the right to  
13 administrative hearing shall be deemed an admission of the  
14 violation and penalties may be imposed accordingly.

15 3. If the person issued the citation, or his or her  
16 designated representative, shows that the citation is invalid  
17 or that the violation has been corrected prior to appearing  
18 before the enforcement or licensing board or designated  
19 special magistrate ~~master~~, the enforcement or licensing board  
20 or designated special magistrate ~~master~~ shall dismiss the  
21 citation unless the violation is irreparable or irreversible.

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

25 (f) If the enforcement or licensing board or  
26 designated special magistrate ~~master~~ finds that a violation  
27 exists, the enforcement or licensing board or designated  
28 special magistrate ~~master~~ may order the violator to pay a  
29 civil penalty of not less than the amount set forth on the  
30 citation but not more than \$500 per day for each violation.  
31 In determining the amount of the penalty, the enforcement or



1 licensing board or designated special magistrate ~~master~~ shall  
2 consider the following factors:

- 3 1. The gravity of the violation.
- 4 2. Any actions taken by the violator to correct the  
5 violation.
- 6 3. Any previous violations committed by the violator.

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

17 (h) A certified copy of an order imposing a civil  
18 penalty against an uncertified contractor may be recorded in  
19 the public records and thereafter shall constitute a lien  
20 against any real or personal property owned by the violator.  
21 Upon petition to the circuit court, such order may be enforced  
22 in the same manner as a court judgment by the sheriffs of this  
23 state, including a levy against personal property; however,  
24 such order shall not be deemed to be a court judgment except  
25 for enforcement purposes. A civil penalty imposed pursuant to  
26 this part shall continue to accrue until the violator comes  
27 into compliance or until judgment is rendered in a suit to  
28 foreclose on a lien filed pursuant to this section, whichever  
29 occurs first. After 3 months following ~~from~~ the filing of any  
30 such lien which remains unpaid, the enforcement or licensing  
31 board or designated special magistrate ~~master~~ may authorize

1 the local governing body's attorney to foreclose on the lien.  
2 No lien created pursuant to the provisions of this part may be  
3 foreclosed on real property which is a homestead under s. 4,  
4 Art. X of the State Constitution.

5 (j) An aggrieved party, including the local governing  
6 body, may appeal a final administrative order of an  
7 enforcement or licensing board or ~~special~~ designated special  
8 magistrate master to the circuit court. Such an appeal shall  
9 not be a hearing de novo but shall be limited to appellate  
10 review of the record created before the enforcement or  
11 licensing board or designated special master. An appeal shall  
12 be filed within 30 days of the execution of the order to be  
13 appealed.

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

16 496.420 Civil remedies and enforcement.--

17 (1) In addition to other remedies authorized by law,  
18 the department may bring a civil action in circuit court to  
19 enforce ss. 496.401-496.424 or s. 496.426. Upon a finding that  
20 any person has violated any of these sections, a court may  
21 make any necessary order or enter a judgment including, but  
22 not limited to, a temporary or permanent injunction, a  
23 declaratory judgment, the appointment of a general or special  
24 magistrate master or receiver, the sequestration of assets,  
25 the reimbursement of persons from whom contributions have been  
26 unlawfully solicited, the distribution of contributions in  
27 accordance with the charitable or sponsor purpose expressed in  
28 the registration statement or in accordance with the  
29 representations made to the person solicited, the  
30 reimbursement of the department for investigative costs,  
31 attorney's fees and costs, and any other equitable relief the

1 court finds appropriate. Upon a finding that any person has  
2 violated any provision of ss. 496.401-496.424 or s. 496.426  
3 with actual knowledge or knowledge fairly implied on the basis  
4 of objective circumstances, a court may enter an order  
5 imposing a civil penalty in an amount not to exceed \$10,000  
6 per violation.

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

9 501.207 Remedies of enforcing authority.--

10 (3) Upon motion of the enforcing authority or any  
11 interested party in any action brought under subsection (1),  
12 the court may make appropriate orders, including, but not  
13 limited to, appointment of a general or special magistrate  
14 ~~master~~ or receiver or sequestration or freezing of assets, to  
15 reimburse consumers or governmental entities found to have  
16 been damaged; to carry out a transaction in accordance with  
17 the reasonable expectations of consumers or governmental  
18 entities; to strike or limit the application of clauses of  
19 contracts to avoid an unconscionable result; to order any  
20 defendant to divest herself or himself of any interest in any  
21 enterprise, including real estate; to impose reasonable  
22 restrictions upon the future activities of any defendant to  
23 impede her or him from engaging in or establishing the same  
24 type of endeavor; to order the dissolution or reorganization  
25 of any enterprise; or to grant legal, equitable, or other  
26 appropriate relief. The court may assess the expenses of a  
27 general or special magistrate ~~master~~ or receiver against a  
28 person who has violated, is violating, or is otherwise likely  
29 to violate this part. Any injunctive order, whether temporary  
30 or permanent, issued by the court shall be effective  
31 throughout the state unless otherwise provided in the order.

1           Section 90. Section 501.618, Florida Statutes, is  
2 amended to read:

3           501.618 General civil remedies.--The department may  
4 bring:

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

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

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

16  
17 Upon motion of the enforcing authority in any action brought  
18 under this section, the court may make appropriate orders,  
19 including appointment of a general or special magistrate  
20 ~~master~~ or receiver or sequestration of assets, to reimburse  
21 consumers found to have been damaged, to carry out a consumer  
22 transaction in accordance with the consumer's reasonable  
23 expectations, or to grant other appropriate relief. The court  
24 may assess the expenses of a general or special magistrate  
25 ~~master~~ or receiver against a commercial telephone seller. Any  
26 injunctive order, whether temporary or permanent, issued by  
27 the court shall be effective throughout the state unless  
28 otherwise provided in the order.

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

31           559.936 Civil penalties; remedies.--

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

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

10           582.23 Performance of work under the regulations by  
11 the supervisors.--

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

1 perform the work or other operations or otherwise bring the  
2 condition of such lands into conformity with the requirements  
3 of such regulations, and recover the costs and expenses  
4 thereof, with interest, from the owner of such land. Upon the  
5 presentation of such petition the court shall cause process to  
6 be issued against the defendant, and shall hear the case. If  
7 it shall appear to the court that testimony is necessary for  
8 the proper disposition of the matter, it may take evidence or  
9 appoint a special magistrate ~~master~~ to take such evidence as  
10 it may direct and report the same to the court within her or  
11 his findings of fact and conclusions of law, which shall  
12 constitute a part of the proceedings upon which the  
13 determination of the court shall be made.

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

16 631.182 Receiver claims report and claimants  
17 objections procedure.--

18 (2) At the hearing, any interested person is entitled  
19 to appear. The hearing shall not be de novo but shall be  
20 limited to the record as described in s. 631.181(2). The court  
21 shall enter an order allowing, allowing in part, or  
22 disallowing the claim. Any such order is deemed to be an  
23 appealable order. In the interests of judicial economy, the  
24 court may appoint a special magistrate ~~master~~ to resolve  
25 objections or to perform any particular service required by  
26 the court. This subsection shall apply to receivership  
27 proceedings commencing prior to, or subsequent to, July 1,  
28 1997.

29 Section 94. Subsections (3) and (4) of section  
30 631.331, Florida Statutes, are amended to read:

31

1           631.331 Assessment prima facie correct; notice;  
2 payment; proceeding to collect.--

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

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

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

20           (b) Appears in the manner and form required by law in  
21 response to the order, the court shall hear and determine the  
22 matter and enter a judgment in accordance with its decision.  
23 In the interests of judicial economy, the court may appoint a  
24 special magistrate ~~master~~ to resolve objections or to perform  
25 any particular service required by the court. This paragraph  
26 shall apply to receivership proceedings commencing prior to,  
27 or subsequent to, July 1, 1997.

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

30           633.052 Ordinances relating to firesafety;  
31 definitions; penalties.--

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

9           (a) That a violation of such an ordinance is a civil  
10 infraction.

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

12           (c) A civil penalty of less than the maximum civil  
13 penalty if the person who has committed the civil infraction  
14 does not contest the citation.

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

18           (e) For the contesting of a citation in the county  
19 court.

20           (f) Such procedures and provisions necessary to  
21 implement any ordinances enacted under the authority of this  
22 section.

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

25           744.369 Judicial review of guardianship reports.--

26           (2) The court may appoint general or special  
27 magistrate ~~masters~~ to assist the court in its review function.  
28 The court may require the general or special magistrate ~~master~~  
29 to conduct random field audits.

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



1           760.11 Administrative and civil remedies;  
2 construction.--

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

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

17           837.011 Definitions.--In this chapter, unless a  
18 different meaning plainly is required:

19           (1) "Official proceeding" means a proceeding heard, or  
20 which may be or is required to be heard, before any  
21 legislative, judicial, administrative, or other governmental  
22 agency or official authorized to take evidence under oath,  
23 including any referee, general or special magistrate ~~master in~~  
24 ~~chancery~~, administrative law judge, hearing officer, hearing  
25 examiner, commissioner, notary, or other person taking  
26 testimony or a deposition in connection with any such  
27 proceeding.

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

30           838.014 Definitions.--For the purposes of this  
31 chapter, unless a different meaning plainly is required:

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

17           Section 100. Section 839.17, Florida Statutes, is  
18 amended to read:

19           839.17 Misappropriation of moneys by commissioners to  
20 make sales.--Any commissioner or general or special magistrate  
21 ~~master in chancery~~, having received the purchase money or the  
22 securities resulting from any of the sales authorized by law,  
23 who shall fail to deliver such moneys and securities, or  
24 either of them, to the executor or administrator, or the  
25 person entitled to receive the same, upon the order of the  
26 court, unless she or he is rendered unable to do so by some  
27 cause not attributable to her or his own default or neglect,  
28 shall be fined in a sum equal to the amount received from the  
29 purchaser, and commits ~~shall be guilty of~~ a felony of the  
30 second degree, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084.

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

3           916.107 Rights of forensic clients.--

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

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

13           1. In an emergency situation in which there is  
14 immediate danger to the safety of the client or others, such  
15 treatment may be provided upon the written order of a  
16 physician for a period not to exceed 48 hours, excluding  
17 weekends and legal holidays. If, after the 48-hour period,  
18 the client has not given express and informed consent to the  
19 treatment initially refused, the administrator or designee of  
20 the forensic facility shall, within 48 hours, excluding  
21 weekends and legal holidays, petition the committing court or  
22 the circuit court serving the county in which the facility is  
23 located, at the option of the facility administrator or  
24 designee, for an order authorizing the continued treatment of  
25 the client. In the interim, treatment may be continued  
26 without the consent of the client upon the continued written  
27 order of a physician who has determined that the emergency  
28 situation continues to present a danger to the safety of the  
29 client or others.

30           2. In a situation other than an emergency situation,  
31 the administrator or designee of the forensic facility shall

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

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

- 23 a. The client's expressed preference regarding  
24 treatment;  
25 b. The probability of adverse side effects;  
26 c. The prognosis without treatment; and  
27 d. The prognosis with treatment.

28  
29 The hearing shall be as convenient to the client as may be  
30 consistent with orderly procedure and shall be conducted in  
31 physical settings not likely to be injurious to the client's

1 condition. The court may appoint a general or special  
2 magistrate ~~master~~ to preside at the hearing. The client or the  
3 client's guardian, and the representative, shall be provided  
4 with a copy of the petition and the date, time, and location  
5 of the hearing. The client has the right to have an attorney  
6 represent him or her at the hearing, and, if the client is  
7 indigent, the court shall appoint the office of the public  
8 defender to represent the client at the hearing. The client  
9 may testify or not, as he or she chooses, and has the right to  
10 cross-examine witnesses and may present his or her own  
11 witnesses.

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

14 938.30 Court-imposed financial obligations in criminal  
15 cases; supplementary proceedings.--

16 (11) The court may refer any proceeding under this  
17 section to a special magistrate ~~master~~ who shall report  
18 findings and make recommendations to the court. The court  
19 shall act on such recommendations within a reasonable amount  
20 of time.

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

23 945.43 Admission of inmate to mental health treatment  
24 facility.--

25 (3) PROCEDURE FOR HEARING ON TRANSFER OF AN INMATE FOR  
26 MENTAL HEALTH TREATMENT.--If the inmate does not waive a  
27 hearing or if the inmate or the inmate's representative files  
28 a petition for a hearing after having waived it, the court  
29 shall serve notice on the warden of the facility where the  
30 inmate is confined, the director, and the allegedly mentally  
31 ill inmate. The notice shall specify the date, time, and place

1 of the hearing; the basis for the allegation of mental  
2 illness; and the names of the examining experts. The hearing  
3 shall be held within 5 days, and the court may appoint a  
4 general or special magistrate ~~master~~ to preside. The hearing  
5 may be as informal as is consistent with orderly procedure.  
6 One of the experts whose opinion supported the recommendation  
7 shall be present at the hearing for information purposes. If,  
8 at the hearing, the court finds that the inmate is mentally  
9 ill and in need of care and treatment, it shall order that he  
10 or she be transferred to a mental health treatment facility  
11 and provided appropriate treatment. The court shall provide a  
12 copy of its order authorizing transfer and all supporting  
13 documentation relating to the inmate's condition to the warden  
14 of the treatment facility. If the court finds that the inmate  
15 is not mentally ill, it shall dismiss the petition for  
16 transfer.

17 Section 104. This act shall take effect October 1,  
18 2003.

19  
20 \*\*\*\*\*

21 SENATE SUMMARY

22 Revises laws governing various judicial and  
23 administrative proceedings to redesignate "magistrates"  
24 as "trial court judges" and to redesignate "masters" and  
"general or special masters" as "general or special  
magistrates."  
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