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HB 0113A, Engrossed 2

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A bill to be entitled

An act relating to the judicial system; amending s. 25.073, F.S.; revising a definition for purposes of retired justices or judges assigned to temporary duty; amending s. 25.383, F.S.; removing provisions relating to fees for certification and renewal of certification of court reporters; amending s. 25.384, F.S.; expanding the use of the Court Education Trust Fund; revising the title of pt. I, ch. 27, F.S.; renumbering and amending s. 43.35, F.S.; requiring witness coordination to be provided by the state attorneys and public defenders; amending s. 27.02, F.S.; restricting duties of state attorneys before circuit and county courts; requiring the state attorney to provide discovery materials to a defendant; providing for fees; amending s. 27.04, F.S.; revising provisions relating to summoning and examining witnesses for the state to cover any violation of the law; amending s. 27.15, F.S.; providing for payment of expenses for a state attorney to assist in another circuit; amending s. 27.25, F.S.; providing that state attorneys may employ personnel and receive appropriations as authorized by the General Appropriations Act; amending s. 27.34, F.S.; prohibiting counties or municipalities from funding the state attorneys' offices for prosecution of violations of special laws or ordinances; eliminating provisions authorizing the use of funds for certain civil and criminal proceedings; eliminating provisions requiring counties to provide certain services and pay certain fees, expenses, and costs incurred by the state attorney; amending s. 27.35, F.S.; providing that salaries of state



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attorneys shall be provided in the General Appropriations Act; revising the title of pt. III, ch. 27, F.S.; creating s. 27.40, F.S.; providing requirements for court-appointed counsel; providing for circuit registries of private attorneys; requiring annual fees; specifying inapplicability to court-appointed counsel in postconviction capital collateral cases; creating s. 27.42, F.S.; providing for the composition, staff, responsibilities, and funding of circuit Article V indigent services committees; requiring the preparation and distribution of a statewide comparative budget report relating to circuit Article V indigent services committees by the Justice Administrative Commission; providing for the appropriation of funds for attorney's fees and expenses in criminal conflict cases and in child dependency cases and other court-appointed counsel cases; amending s. 27.51, F.S.; revising duties of the public defender; specifying additional indigent persons for whom the public defender is required to secure representation; deleting provisions relating to limitations on representation by public defenders in direct appeals of death penalty cases; amending s. 27.52, F.S.; revising provisions relating to determination of indigence; requiring the clerk of the circuit court to make such determination; providing for payment of application fees; providing for deposit of recovered amounts into the General Revenue Fund; providing for a payment program; amending s. 27.53, F.S.; revising method of funding offices of public defender; specifying that special assistant public defenders are volunteer attorneys;



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amending s. 27.5301, F.S.; revising method of paying salaries of public defenders; creating s. 27.5303, F.S.; providing requirements for appointment of counsel in conflict of interest of public defender; providing criteria for determining whether a conflict of interest exists; prohibiting withdrawal based solely on lack of funding or excess workload; creating s. 27.5304, F.S.; providing for compensation of private court-appointed counsel; amending s. 27.54, F.S.; prohibiting counties or municipalities from funding the public defenders' offices for prosecution of violations of special laws or ordinances; eliminating provisions requiring counties to provide certain services and pay certain fees, expenses, and costs incurred by the public defender; amending s. 27.562, F.S.; providing for disposition of funds collected for legal assistance; amending s. 27.58, F.S.; revising provisions relating to administration of public defender services; amending s. 27.702, F.S.; conforming terminology; amending s. 28.101, F.S.; authorizing an increase in the service charge for filing for dissolution of marriage; renumbering and amending s. 43.195, F.S.; authorizing a clerk to dispose of items of physical evidence in cases where no collateral attack is pending; creating s. 28.215, F.S.; providing for pro se assistance; amending s. 28.24, F.S.; prohibiting the clerk of the court from charging court officials for copies of public records; modifying the service charges for services rendered by the clerk of the court in recording documents and instruments and in performing certain other duties; eliminating the charges for court attendance by each clerk



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or deputy clerk, court minutes, making and reporting payrolls of jurors, issuing jury summons, and paying witnesses and making and reporting payrolls; amending s. 28.2401, F.S.; authorizing an increase in various service charges for probate matters; prohibiting county governing authorities from imposing additional charges; creating s. 28.2402, F.S.; imposing a fee on a county or municipality for filing a municipal code or ordinance violation in court; amending s. 28.241, F.S.; authorizing an increase in the fee for filing a civil action in circuit court; requiring that a portion of the fee be remitted to the Clerk of Court Operations Conference; providing a filing fee for reopening a civil action, suit, or proceeding; providing for a reduction in that fee for a petition to modify a final judgment of dissolution; authorizing increases in other filing fees; deleting provisions authorizing a county to assess amounts in excess of specified service charges; prohibiting additional fees, charges, or costs; amending s. 28.245, F.S.; requiring electronic transmittal of funds collected by the clerks of court to the Department of Revenue; creating s. 28.246, F.S.; providing requirements for payment of court-related fees, charges, and costs; providing for collection by private attorney or collection agent; creating s. 28.345, F.S.; exempting state attorneys and public defenders from all fees and charges of the clerks of the circuit courts; creating s. 28.35, F.S.; establishing the Clerk of Court Operations Conference; providing membership; providing duties of the conference, including recommending changes in court-related fines, fees, service charges, and cost



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schedules to the Legislature, establishing a process for review and approval of proposed budgets submitted by the clerks of the court, certification of budget insufficiencies, and publication of a schedule of maximum fines, fees, service charges, and costs that may be charged; providing for a clerk education program; requiring maintenance of a public depository to receive funds for operations; requiring an annual financial audit; creating s. 28.36, F.S.; providing budget review and approval procedures for the court-related functions of the clerks of the courts; creating s. 28.37, F.S.; providing for certain revenues collected by the clerks to be remitted to the state to pay certain costs of the state courts system; requiring the Department of Revenue to adopt rules; amending s. 29.001, F.S.; defining the elements of the state courts system; providing for using state revenue to pay certain costs associated with those elements; specifying expenses that counties must pay; amending s. 29.004, F.S.; revising and expanding the list of elements of the state courts system to be provided from state revenues appropriated by general law; amending s. 29.005, F.S.; revising and expanding the list of elements of state attorneys' offices to be provided from state revenues appropriated by general law; amending s. 29.006, F.S.; revising and expanding the list of elements of public defenders' offices to be provided from state revenues appropriated by general law; amending s. 29.007, F.S.; revising and expanding the list of elements of court-appointed counsel to be provided from state revenues appropriated by general law; amending s. 24, ch. 2000-237,



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Laws of Florida, to delay the effective date of s. 29.008, F.S.; amending s. 29.008, F.S., relating to county funding of court-related functions; redefining terms; providing standards that facilities and communications systems and services must meet to qualify for funding; requiring that the integrated computer system be made capable of electronically exchanging certain data using specified means at certain levels by a specific date; providing for defining local requirements and adopting a budget therefor; creating s. 29.0085, F.S.; modifying county revenue and expenditure reporting requirements; creating s. 29.014, F.S.; creating the Article V Indigent Services Advisory Board; providing for appointment of members and terms; providing for organization; providing duties; creating ss. 29.015 and 29.016, F.S.; establishing contingency funds for the Justice Administrative Commission and the judicial branch to alleviate deficits in due process services appropriation categories; providing requirements for utilization of the funds; amending s. 34.032, F.S.; providing for funding of arrest warrants for violation of county or municipal ordinances; amending s. 34.041, F.S.; providing for filing fees and costs in county courts; providing for disposition of funds collected; amending s. 34.13, F.S.; requiring administration of oaths relating to violation of a municipal ordinance to be at municipal expense; amending s. 34.171, F.S.; requiring county funding of bailiff salaries; amending s. 34.181, F.S., relating to branch courts; providing a cross reference; amending s. 34.191, F.S.; providing for collection and distribution of fines



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and forfeitures ; amending s. 39.0134, F.S.; providing for compensation of appointed counsel in dependency proceedings; amending s. 39.4075, F.S.; requiring parties to contribute to the cost of dependency mediation; amending s. 39.815, F.S.; revising a cross reference; creating s. 40.001, F.S.; providing authority and duties of the chief judge; amending s. 40.02, F.S., relating to selection of jury lists; providing for performance of and payment for such duties; amending s. 40.29, F.S.; revising provisions relating to duty of clerks of court to make estimates and requisitions for certain due process costs; amending s. 40.30, F.S.; requiring the estimate and requisition for payment of jurors and witnesses to be endorsed by the Justice Administrative Commission or designee; updating terminology; amending s. 43.16, F.S.; removing reference to Justice Administrative Commission as part of the judicial branch; expanding duties of the commission relating to court-appointed counsel; amending s. 43.26, F.S.; redesignating the presiding judge of the circuit as the chief judge of the circuit; providing additional powers of the chief judge; amending s. 44.108, F.S.; deleting provisions authorizing a county to levy service charges for court mediation and arbitration; assessing a filing fee on court proceedings; depositing fees in the Mediation and Arbitration Trust Fund; amending s. 49.10, F.S.; removing a cross reference; amending s. 55.10, F.S.; authorizing an increase in the fee for serving a certificate of lien; amending s. 55.141, F.S.; conforming a cross reference; amending s. 55.505, F.S.; authorizing an increase in the service charge for



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recording a foreign judgment; amending s. 57.081, F.S.;  
revising provisions relating to costs and services  
provided to indigent persons; amending s. 57.085, F.S.;  
revising provisions relating to waiver of prepayment of  
court costs and fees for indigent prisoners; amending s.  
61.14, F.S.; authorizing an increase in certain fees  
assessed for delinquency of child support and alimony;  
amending s. 61.181, F.S.; continuing the fee imposed on  
certain payments of alimony and child support; amending s.  
61.21, F.S.; providing for authorization of parenting  
course by the Department of Children and Family Services;  
amending s. 77.28, F.S.; conforming a cross reference;  
amending s. 92.153, F.S.; providing maximum charges for  
documents produced pursuant to subpoenas or records  
request issued by the state attorney or the public  
defender; amending s. 92.231, F.S.; providing for payment  
of expert witness fees; renumbering and amending s.  
914.09, F.S.; providing for compensation of witnesses  
summoned in two or more criminal cases; amending s.  
125.69, F.S.; providing funding requirements with respect  
to prosecution of violations of county ordinances;  
amending s. 142.01, F.S.; providing for the clerk of the  
court to establish a fine and forfeiture fund in each  
county to be used to pay the costs of court-related  
functions; deleting provisions authorizing counties to  
receive funds to pay the cost of criminal prosecutions and  
transfer excess funds to the county general fund; amending  
s. 142.02, F.S.; limiting the use of county funds from a  
levy of a special tax to pay for the cost of criminal  
prosecutions; amending s. 142.03, F.S.; requiring that





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finances and forfeitures be used to pay the costs of court-related functions; amending s. 142.15, F.S.; requiring that fees collected by the sheriff be remitted to the clerk in the county where the crime was alleged to have been committed; amending s. 142.16, F.S.; requiring that fines and forfeitures be remitted to the clerk in the county in which the case was adjudicated; amending s. 145.022; prohibiting a county from appropriating a salary to the clerk of the court based on the fees collected; creating s. 162.30, F.S.; providing for civil actions to enforce county and municipal ordinances; amending ss. 197.532, 197.542, and 197.582, F.S.; conforming cross references; amending s. 212.055, F.S.; revising the definition of "infrastructure" for purposes of the local government infrastructure surtax; amending s. 212.20, F.S.; revising the distribution of the proceeds from certain state-shared revenues; amending s. 218.21, F.S.; revising the guaranteed entitlement of municipalities to certain state revenue sharing; amending s. 218.25, F.S.; allowing a local government to assign, pledge, or set aside certain funds as a trust for payment on indebtedness; amending s. 218.35, F.S.; revising requirements for budget preparation by the clerk of the circuit court as county fee officer; amending s. 318.15, F.S.; authorizing an increase in various fees for persons failing to comply with civil penalties, attend driver improvement school, or appear at a hearing; amending s. 318.18, F.S.; authorizing an increase in various fees for penalties for noncriminal dispositions; creating additional charges and fees to be paid to the clerk of the



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court; authorizing an increase in the fee to dismiss citations; providing for disposition of funds collected; amending s. 318.21, F.S.; revising disposition of civil penalties collected by county courts; amending s. 318.325, F.S.; specifying jurisdiction and procedure for parking infractions; amending s. 322.245, F.S.; authorizing an increase in the delinquency fee for persons charged with specified criminal offenses who fail to comply with the directives of the court; amending s. 327.73, F.S.; authorizing an increase in the charge for court costs for failure to comply with the court's requirements or failure to pay specified civil penalties; amending s. 382.023, F.S.; authorizing an increase in the fee for dissolution of marriage; revising the portion to be retained by the circuit court and the portion remitted to the state, to conform; amending ss. 392.55, 392.56, and 394.473, F.S.; conforming terminology; amending s. 395.3025, F.S.; conforming cross references; amending s. 397.334, F.S.; making treatment-based drug court programs a county option and providing county funding requirements; amending s. 712.06, F.S.; conforming cross references; amending s. 713.24, F.S.; authorizing an increase in the fee for certain services performed by the clerk of the court in transferring liens; amending s. 721.83, F.S.; requiring filing fees and service charges to be paid separately for each defendant in a consolidated foreclosure action; amending s. 741.30, F.S., relating to domestic violence; providing for certain notice to petitioners relating to indigence; amending s. 744.3135, F.S.; authorizing an increase in the fee paid to the clerk of the court for



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processing guardian files; amending s. 744.365, F.S.; authorizing an increase in the fee paid to the clerk of the court for an inventory filed by a guardian; deleting provisions requiring that the county pay the auditing fee when such fee is waived by the court; amending s. 744.3678, F.S.; authorizing an increase in the fees paid by the guardian to the clerk of the court for filing an annual financial return; prohibiting the clerk of the circuit court from billing the county for a waived fee; amending s. 775.083, F.S.; deleting provisions authorizing counties to impose and collect additional fines to be used to pay for local crime prevention programs; providing for the disposition of fines and costs; requiring funding of crime prevention programs in counties; amending s. 796.07, F.S.; conforming a reference; amending s. 914.11, F.S.; requiring the state to pay certain costs and expenses of indigent defendants presently unable to pay; amending s. 916.107, F.S.; providing for right to treatment of forensic clients presently unable to pay; amending s. 916.15, F.S., relating to involuntary commitment of defendant adjudicated not guilty by reason of insanity; providing for representation by the public defender if the defendant is indigent; amending s. 938.01, F.S., relating to Additional Court Cost Clearing Trust Fund; requiring payment of court costs; amending s. 938.03, F.S., relating to Crimes Compensation Trust Fund; requiring payment of additional court costs; amending s. 938.05, F.S.; directing court costs to be deposited in the clerk of the courts fine and forfeiture fund instead of the county trust fund; amending s. 938.06, F.S.; removing a



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restriction on local liability for payment of costs for crime stoppers programs; amending s. 938.19, F.S.; authorizing counties to fund teen courts; amending s. 938.27, F.S.; revising provisions relating to judgment for costs on conviction; requiring payment of such costs; amending s. 938.29, F.S.; providing payment requirements for certain legal assistance; providing requirements for deposit and use of funds collected for attorney's fees and costs; amending s. 938.30, F.S.; specifying financial obligations in criminal cases; amending s. 938.35, F.S.; revising provisions for collection of court-related financial obligations; amending s. 939.06, F.S., relating to acquitted defendant not liable for costs; removing county obligation to pay; amending s. 939.08, F.S.; revising requirements relating to certification of costs of the state courts system; amending s. 939.12, F.S.; providing for payment of costs against state in Supreme Court; reenacting s. 943.053, F.S., relating to the dissemination of criminal justice information, to incorporate the amendments to ss. 27.51 and 27.53, F.S.; amending s. 947.18, F.S.; conforming a reference; amending s. 948.03, F.S.; conforming a cross reference; amending s. 960.001, F.S.; conforming references; amending s. 984.08, F.S.; conforming terminology; amending s. 985.203, F.S., relating to right to counsel; providing for imposition of costs of representation; amending ss. 985.215, 985.231, and 985.233, F.S.; conforming terminology; providing for a review of the Florida Accounting Information Resource subsystem and the Uniform Accounting System Manual with respect to Article V funding; requiring implementation of



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necessary revisions; providing for a study of county expenditures for court-related services; providing requirements; providing for reimbursement of travel costs; requiring a report; requiring a report on costs of court-related services provided by the counties; providing specific requirements; providing for reimbursement of certain expenses; providing an appropriation; providing a statement of important state interest; providing that the transfer of the funding responsibility for the state courts system shall not affect the validity of any judicial or administrative proceeding pending on the day of the transfer; providing that the entity providing appropriations on and after July 1, 2004, shall be considered the successor in interest to any existing contracts, but is not responsible for funding or payment of any service rendered or provided prior to July 1, 2004; authorizing judicial acts to be taken or performed on any day of the week, including Sundays and holidays; authorizing surplus funds for teen courts to be used for juvenile drug courts; repealing certain services charges and fees imposed by counties prior to June 30, 2004; requiring each clerk of the court to submit to the Legislature a report identifying court-related functions and associated costs for county fiscal year 2003-2004; requiring each clerk of the court to notify the Clerk of Court Operations Conference of the schedule of court-related fees, service charges, and costs to be put into effect July 1, 2004, and requiring the conference to submit such information to the Legislature; repealing s. 25.402, F.S., relating to the County Article V Trust Fund;



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repealing s. 27.005, F.S., relating to definitions applicable to state attorneys and public defenders; repealing s. 27.006, F.S., relating to court reporting services; repealing s. 27.271, F.S., relating to per diem and mileage for state attorneys and assistant state attorneys; repealing s. 27.33, F.S., relating to state attorney submission of annual budget; repealing s. 27.3455, F.S., relating to annual statement of court-related revenues and expenditures; repealing s. 27.36, F.S., relating to the Office of Prosecution Coordination; repealing s. 27.385, F.S., relating to state attorney budget expenditures and expenditure reports; repealing s. 27.605, F.S., relating to public defender budget expenditures and expenditure reports; repealing s. 29.002, F.S., relating to the basis for funding the state courts system; repealing s. 29.003, F.S., relating to the phase-in schedule for court funding; repealing s. 29.009, F.S., relating to the contingency fund for criminal-related costs of counties; repealing s. 29.011, F.S., relating to conflict counsel pilot projects; repealing s. 34.201, F.S., relating to the County Article V Trust Fund; repealing s. 43.28, F.S., relating to county provision of court facilities; repealing s. 50.071, F.S., relating to court docket funds; repealing s. 57.091, F.S., relating to costs refunded to counties in certain proceedings relating to state prisoners; repealing s. 218.325, F.S., relating to the uniform chart of accounts and financial reporting for court and justice system costs and revenues; repealing s. 914.06, F.S., relating to compensation of expert witnesses in criminal cases; repealing s. 925.035, F.S.,



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relating to appointment and compensation of an attorney in capital cases and appeals from judgments imposing the death penalty; repealing s. 925.036, F.S., relating to compensation of appointed counsel and prohibition against reassignment or subcontracting of case to another attorney; repealing s. 925.037, F.S., relating to reimbursement of counties for fees paid to appointed counsel and circuit conflict committees; repealing s. 939.05, F.S., relating to discharge of insolvent defendant without payment of costs; repealing s. 939.07, F.S., relating to payment of defendant's witnesses; repealing s. 939.10, F.S., relating to duty of board of county commissioners to verify mileage and actual and necessary services and expenses; repealing s. 939.15, F.S., relating to costs paid by counties in cases of insolvency; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session of the Legislature; providing effective dates.

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

Section 1. Subsection (1) of section 25.073, Florida Statutes, is amended to read:

25.073 Retired justices or judges assigned to temporary duty; additional compensation; appropriation.--

(1) For purposes of this section, the term "retired justice" or "retired judge" means any former justice or judge who:

(a) Has not been defeated in seeking reelection to, or has not failed to be retained in seeking retention in, his or her



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last judicial office or was not defeated when last seeking  
election to judicial office; and

(b) Is not engaged in the practice of law.

Section 2. Effective July 1, 2004, section 25.383, Florida Statutes, is amended to read:

25.383 Standards for court reporters; procedures; rules of professional conduct, discipline, and training; ~~fees.~~--The Supreme Court shall establish minimum standards and procedures for qualifications, certification, discipline, and training for court reporters. ~~The Supreme Court is authorized to set fees to be charged to applicants for certification and renewal of certification. The revenues generated from such fees shall be used to offset the costs of administration of the certification process.~~ The Supreme Court may appoint or employ such personnel as are necessary to assist the court in exercising its powers and performing its duties under this section.

Section 3. Effective July 1, 2004, paragraph (a) of subsection (2) of section 25.384, Florida Statutes, is amended to read:

25.384 Court Education Trust Fund.--

(2)(a) The trust fund moneys shall be used to provide judicial education and training for judges and other court personnel as defined and determined by the Florida Court Educational Council, ~~the State Courts Administrator and his or her staff, trial court administrators, and appellate court law clerks.~~ In addition, funds may be used for the development and implementation of an educational program for the clerks of court as set forth in s. 145.051(2).

Section 4. Part I of chapter 27, entitled "Definitions; Court Reporters," is retitled as "Court Reporters; Witness





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Coordination," and shall consist of sections 27.0055, 27.006, 27.0061, and 27.0065, Florida Statutes. This section shall take effect July 1, 2004.

Section 5. Effective July 1, 2004, section 43.35, Florida Statutes, is renumbered as section 27.0065, Florida Statutes, and amended to read:

27.0065 ~~43.35~~ Witness coordination ~~coordinating offices.--~~ Each state attorney and public defender ~~court administrator~~ shall establish a witness coordination office ~~in each county~~ within his or her judicial circuit. The office shall be responsible for:

(1) Coordinating court appearances, including pretrial conferences and depositions, for all witnesses who are subpoenaed in criminal cases, including law enforcement personnel.

(2) Contacting witnesses and securing information necessary to place a witness on an on-call status with regard to his or her court appearance.

(3) Contacting witnesses to advise them not to report to court in the event the case for which they have been subpoenaed has been continued or has had a plea entered, or in the event there is any other reason why their attendance is not required on the dates they have been ordered to report.

(4) Contacting the employer of a witness, when necessary, to confirm that the employee has been subpoenaed to appear in court as a witness.

In addition, the state attorney or public defender ~~the office~~ may provide additional services to reduce time and wage losses to a minimum for all witnesses.



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Section 6. Effective July 1, 2004, section 27.02, Florida Statutes, is amended to read:

27.02 Duties before court.--

(1) The state attorney shall appear in the circuit and county courts within his or her judicial circuit and prosecute or defend on behalf of the state all suits, applications, or motions, civil or criminal, in which the state is a party, except as provided in chapters 39, 984, and 985. The intake procedures of chapters 39, 984, and 985 shall apply as provided therein. The state attorney shall not appear in the circuit and county courts within his or her judicial circuit for the purpose of prosecuting violations of special laws, unless expressly authorized, or violations of county or municipal ordinances, unless ancillary to a state prosecution and authorized by the prosecuting attorney of the county.

(2) The state attorney shall provide to the defendant all discovery materials required pursuant to the applicable rule of procedure and may charge fees as provided for in s. 119.07(1)(a), not to exceed 15 cents per page for a copy of a noncertified copy of a public record. However, these fees may be deferred if the defendant has been determined to be indigent as provided in s. 27.52.

Section 7. Section 27.04, Florida Statutes, is amended to read:

27.04 Summoning and examining witnesses for state.--The state attorney shall have summoned all witnesses required on behalf of the state; and he or she is allowed the process of his or her court to summon witnesses from throughout the state to appear before the state attorney in or out of term time at such convenient places in the state attorney's judicial circuit and



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at such convenient times as may be designated in the summons, to testify before him or her as to any violation of the ~~criminal~~ law upon which they may be interrogated, and he or she is empowered to administer oaths to all witnesses summoned to testify by the process of his or her court or who may voluntarily appear before the state attorney to testify as to any violation or violations of the ~~criminal~~ law.

Section 8. Subsection (2) of section 27.15, Florida Statutes, is amended to read:

27.15 State attorneys to assist in other circuits.--

(2) When any state attorney is required to go beyond the limits of the circuit in which he or she holds office to comply with this section or on other official business performed at the direction of the Governor, the expenses that would otherwise not have been incurred but for the executive assignment ~~incurred~~ shall be borne by the state and shall be paid from the appropriation provided by the state for the state attorney who is being assisted in the discharge of his or her duties. Other costs attendant to the prosecution of such cases shall be paid by the entity obligated to pay the expense in the absence of an executive assignment ~~circuit courts~~.

Section 9. Effective July 1, 2004, subsections (1) and (5) of section 27.25, Florida Statutes, are amended to read:

27.25 State attorney authorized to employ personnel; funding formula.--

(1) The state attorney of each judicial circuit is authorized to employ and establish, in such number as is authorized by the General Appropriations Act ~~he or she shall determine~~, assistant state attorneys, ~~investigators, and clerical, secretarial,~~ and other staff pursuant to s. 29.005



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~~personnel, who shall be paid from funds appropriated for that purpose.~~ The state attorneys of all judicial circuits shall jointly develop a coordinated classification and pay plan which shall be submitted on or before January 1 of each year to the Justice Administrative Commission, the office of the President of the Senate, and the office of the Speaker of the House of Representatives. Such plan shall be developed in accordance with policies and procedures of the Executive Office of the Governor established pursuant to s. 216.181.

(5) The appropriations for the offices of state attorneys shall be determined by a funding formula based on population and such other factors as may be deemed appropriate in a manner to be determined by this section ~~subsection~~ and the General ~~any subsequent~~ Appropriations Act.

Section 10. Effective July 1, 2004, section 27.34, Florida Statutes, is amended to read:

27.34 Limitations on payment of salaries and other related costs of state attorneys' offices other than by the state- ~~limitations.--~~

(1) A ~~No~~ county or municipality may not contract with, or shall appropriate or contribute funds to the operation of, the various state attorneys for the prosecution of, ~~except that a county or municipality may appropriate or contribute funds to pay the salary of one assistant state attorney whose sole function shall be to prosecute~~ violations of special laws, unless expressly authorized, or ordinances of the county or municipality, unless ancillary to a state prosecution. ~~and may provide~~ Persons employed by the county or municipality may be provided to the state attorney to serve as special investigators pursuant to the provisions of s. 27.251. ~~However, any county or~~



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~~municipality may contract with the state attorney of the judicial circuit in which such county or municipality is located for the prosecution of violations of county or municipal ordinances. In addition, a county or municipality may appropriate or contribute funds to pay the salary of one or more assistant state attorneys who are trained in the use of the civil and criminal provisions of the Florida RICO Act, chapter 895, and whose sole function is to investigate and prosecute civil and criminal RICO actions when one or more offenses identified in s. 895.02(1)(a) occur within the boundaries of the municipality or county.~~

~~(2) The state attorneys shall be provided by the counties within their judicial circuits with such office space, utilities, telephone service, custodial services, library services, transportation services, and communication services as may be necessary for the proper and efficient functioning of these offices, except as otherwise provided in the General Appropriations Act. The state attorney's office shall also be provided with pretrial consultation fees for expert or other potential witnesses consulted before trial by the state attorney; travel expenses incurred in criminal cases by a state attorney in connection with out-of-jurisdiction depositions; out-of-state travel expenses incurred by assistant state attorneys or by investigators of state attorneys while attempting to locate and interrogate witnesses for the state attorney in the prosecution of a criminal case; court reporter costs incurred by the state attorney during the course of an investigation and criminal prosecution which costs are certified by the state attorney as being useful and necessary in the prosecution, provided that nothing herein shall be construed to~~



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~~prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought; postindictment and postinformation deposition costs incurred by the state attorney during the course of a criminal prosecution of an insolvent defendant when such costs are certified by the state attorney as being useful and necessary in the prosecution, provided that nothing herein shall be construed to prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought; and the cost of copying depositions of state witnesses taken by the public defender, court appointed counsel, or private retained counsel, when such costs are certified by the state attorney as being useful and necessary in the prosecution, provided that nothing herein shall be construed to prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought. The office space to be provided by the counties shall not be less than the standards for space allotment adopted by the Department of Management Services, nor shall these services and office space be less than were provided in the prior fiscal year.~~

(2)~~(3)~~ It is hereby prohibited for any state attorney to receive from any county or municipality any supplemental salary. ~~However in judicial circuits with a population of 1 million or more, state attorneys presently holding office and now receiving a county supplement may continue to receive a county salary supplement at the discretion of the counties for the remainder of their term of office.~~

(3)~~(4)~~ Notwithstanding s. 27.25, the Chief Financial Officer Insurance Commissioner may contract with the state attorney of any judicial circuit of the state for the



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prosecution of criminal violations of the Workers' Compensation Law and related crimes if the Chief Financial Officer contributes ~~and may contribute~~ funds for such purposes. Such contracts may provide for the training, salary, and expenses of one or more assistant state attorneys used in the prosecution of such crimes.

Section 11. Section 27.35, Florida Statutes, is amended to read:

27.35 Salaries of state attorneys.--

(1) Each state attorney shall receive as salary the amount provided in the General Appropriations Act ~~subsection (2) and subsequent appropriations acts.~~

~~(2) The annual salaries for state attorneys shall be as follows:~~

~~(a) In those circuits having a population of 100,000 or less ..... \$28,000.~~

~~(b) In those circuits having a population of more than 100,000 but less than 200,000 ..... 30,000.~~

~~(c) In those circuits having a population of more than 200,000 ..... 32,000.~~

Section 12. Part III of chapter 27, entitled "Public Defenders," is retitled as "Public Defenders and Other Court-appointed Counsel," and shall consist of sections 27.40, 27.42, 27.50, 27.51, 27.512, 27.52, 27.525, 27.53, 27.5301, 27.5302, 27.5303, 27.5304, 27.54, 27.55, 27.561, 27.562, 27.58, and 27.59, Florida Statutes. This section shall take effect July 1, 2004.

Section 13. Effective July 1, 2004, section 27.40, Florida Statutes, is created to read:



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27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.--

(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in s. 27.51. Private counsel shall be appointed to represent indigents in those cases in which provision is made for court-appointed counsel but the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation.

(2) Private counsel appointed by the court to provide representation shall be selected from a registry established by the circuit Article V indigent services committee or procured through a competitive-bidding process.

(3) In utilizing a registry:

(a) Each circuit Article V indigent services committee shall compile and maintain a list of attorneys in private practice, by county and by category of cases. To be included on a registry, attorneys shall certify that they meet any minimum requirements established in general law for court appointment, are available to represent indigent defendants in cases requiring court appointment of private counsel, and are willing to abide by the terms of the contract for services. Each attorney on the registry shall be responsible for notifying the circuit Article V indigent services committee of any change in his or her status. Failure to comply with this requirement shall be cause for removal from the registry until the requirement is fulfilled.





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(b) The court shall appoint attorneys in rotating order in the order in which names appear on the applicable registry, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney not appointed in the order in which his or her name appears on the list shall remain next in order.

(c) If it finds the number of attorneys on the registry in a county or circuit for a particular category of cases is inadequate, the circuit Article V indigent services committee shall notify the chief judge of the particular circuit in writing. The chief judge shall submit the names of at least three private attorneys with relevant experience. The clerk of court shall send an application to each of these attorneys to register for appointment.

(d) Quarterly, beginning July 1, 2004, each circuit Article V indigent services committee shall provide the Chief Justice of the Supreme Court, the chief judge, the state attorney and public defender in each judicial circuit, and the clerk of court in each county with a current copy of each registry.

(4) To be eligible for court appointment, an attorney must be a member in good standing of The Florida Bar in addition to any other qualifications specified by general law.

(5) The Justice Administrative Commission shall approve uniform contract forms for use in procuring the services of private court-appointed counsel based on the recommendations of the Article V Indigent Services Advisory Board.

(6) After court appointment, the attorney must immediately file a notice of appearance with the court indicating acceptance of the appointment to represent the defendant.



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(7)(a) An attorney appointed to represent a defendant or other client is entitled to payment of attorney's fees and expenses pursuant to s. 27.5304, only upon full performance by the attorney of specified duties, approval of payment by the court, and attorney submission of a payment request to the Justice Administrative Commission. If an attorney is permitted to withdraw or is otherwise removed from representation prior to full performance of the duties specified in this section, the trial court shall approve payment of attorney's fees and costs for work performed in an amount not to exceed the amounts specified in s. 27.5304.

(b) The attorney shall maintain appropriate documentation, including a current and detailed hourly accounting of time spent representing the defendant or other client.

(8) Subject to the attorney-client, work-product privilege, an attorney who withdraws or is removed from representation shall deliver all files, notes, documents, and research to the successor attorney within 15 days after receiving notice from the successor attorney. The successor attorney shall bear the cost of transmitting all files, notes, documents, and research.

(9) A circuit Article V indigent services committee or any interested person may advise the court of any circumstance affecting the quality of representation, including, but not limited to, false or fraudulent billing, misconduct, failure to meet continuing legal education requirements, solicitation to receive compensation from the defendant or other client the attorney is appointed to represent, or failure to file appropriate motions in a timely manner.



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(10) This section does not apply to attorneys appointed to represent persons in postconviction capital collateral cases pursuant to part IV of this chapter.

Section 14. Effective July 1, 2004, section 27.42, Florida Statutes, is created to read:

27.42 Circuit Article V indigent services committees; composition; staff; responsibilities; funding.--

(1) In each judicial circuit a circuit Article V indigent services committee shall be established. The committee shall consist of the following:

(a) The chief judge of the judicial circuit or the chief judge's designee, who shall serve as the chair.

(b) The public defender of the judicial circuit.

(c) One experienced private criminal defense attorney appointed by the chief judge to serve a 2-year term. During the 2-year term, the attorney is prohibited from serving as court-appointed counsel.

(d) One experienced civil trial attorney appointed by the chief judge, to serve a 2-year term. During the 2-year term, the attorney is prohibited from serving as court-appointed counsel.

(2)(a) The responsibility of the circuit Article V indigent services committee is to manage the appointment and compensation of court-appointed counsel within a circuit pursuant to ss. 27.40 and 27.5303. The circuit Article V indigent services committee shall meet at least quarterly.

(b) The circuit Article V indigent services committee shall maintain a registry pursuant to s. 27.40, unless procuring counsel through a competitive-bidding process. The committee shall apply the eligibility and performance standards set by the Legislature, if any, after receiving recommendations from the



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Article V Indigent Services Advisory Board, for the appropriate category of case.

(c) The circuit Article V indigent services committee shall develop a schedule of standard fees and expense allowances for the various categories of cases, consistent with the standards adopted by the Legislature, if any, after receiving recommendations from the Article V Indigent Services Advisory Board.

(3) The Justice Administrative Commission shall prepare and issue on a quarterly basis a statewide report comparing actual year-to-date expenditures to budgeted amounts for the circuit Article V indigent services committees in each of the judicial circuits. Copies of these quarterly reports shall be distributed to each circuit Article V indigent services committee and to the President of the Senate and the Speaker of the House of Representatives.

(4)(a) The funding and positions for the processing of committees' fees and expenses shall be as appropriated to the Justice Administrative Commission in the General Appropriations Act.

(b) Funds for criminal conflict case fees and expenses shall be appropriated by the Legislature in a separate appropriations category within the Justice Administrative Commission. These funds shall be allocated to each circuit as prescribed in the General Appropriations Act.

(c) Separate funds for attorneys' fees and expenses in conflict cases under chapter 394 shall be appropriated by the Legislature in a separate appropriations category within the Justice Administrative Commission.



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(d) The Legislature shall appropriate separate funds for attorneys' fees and expenses in child dependency cases and other court-appointed counsel cases in a separate appropriations category within the Justice Administrative Commission.

Section 15. Effective July 1, 2004, section 27.51, Florida Statutes, is amended to read:

27.51 Duties of public defender.--

(1) The public defender shall represent, without additional compensation, any person who is determined ~~by the court~~ to be indigent as provided in s. 27.52 and who is:

(a) Under arrest for, or is charged with, a felony;

(b) Under arrest for, or is charged with, a misdemeanor authorized for prosecution by the state attorney, a violation of chapter 316 which is punishable by imprisonment, or criminal contempt, ~~or a violation of a municipal or county ordinance in the county court~~, unless the court, prior to trial, files in the cause an order of no imprisonment which states that the defendant will not be imprisoned if he or she is convicted;

(c) Alleged to be a delinquent child pursuant to a petition filed before a circuit court; ~~or~~

(d) Sought by petition filed in such court to be involuntarily placed as a mentally ill person or sexually violent predator or involuntarily admitted to residential services as a person with developmental disabilities. However, a public defender does not have the authority to represent any person who is a plaintiff in a civil action brought under the Florida Rules of Civil Procedure, the Federal Rules of Civil Procedure, or the federal statutes, or who is a petitioner in an administrative proceeding challenging a rule under chapter 120, unless specifically authorized by statute; or



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(e) Convicted and sentenced to death for purposes of prosecuting an appeal to the Supreme Court.

(2) The court may not appoint the public defender to represent, even on a temporary basis, any person who is not indigent. The court, however, may appoint private counsel in capital cases as provided in ss. 27.40 and 27.5303 ~~s. 925.035~~.

(3) Each public defender shall serve on a full-time basis and is prohibited from engaging in the private practice of law while holding office. Assistant public defenders shall give priority and preference to their duties as assistant public defenders and shall not otherwise engage in the practice of criminal law.

(4) The public defender for a judicial circuit enumerated in this subsection shall, after the record on appeal is transmitted to the appellate court by the office of the public defender which handled the trial and if requested by any public defender within the indicated appellate district, handle all felony appeals to the state and federal courts required of the official making such request:

(a) Public defender of the second judicial circuit, on behalf of any public defender within the district comprising the First District Court of Appeal.

(b) Public defender of the tenth judicial circuit, on behalf of any public defender within the district comprising the Second District Court of Appeal.

(c) Public defender of the eleventh judicial circuit, on behalf of any public defender within the district comprising the Third District Court of Appeal.



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(d) Public defender of the fifteenth judicial circuit, on behalf of any public defender within the district comprising the Fourth District Court of Appeal.

(e) Public defender of the seventh judicial circuit, on behalf of any public defender within the district comprising the Fifth District Court of Appeal.

~~(5) When the public defender for a judicial circuit enumerated in subsection (4) has represented at trial a person sentenced to death, the public defender shall not represent that person in any direct appellate proceedings. That public defender shall notify the Florida Supreme Court within 10 days after filing a notice of appeal, and the Court shall appoint another public defender enumerated in subsection (4) to represent the person in any direct appellate proceedings.~~

(5)~~(6)~~(a) When direct appellate proceedings prosecuted by a public defender on behalf of an accused and challenging a judgment of conviction and sentence of death terminate in an affirmance of such conviction and sentence, whether by the Florida Supreme Court or by the United States Supreme Court or by expiration of any deadline for filing such appeal in a state or federal court, the public defender shall notify the accused of his or her rights pursuant to Rule 3.850, Florida Rules of Criminal Procedure, including any time limits pertinent thereto, and shall advise such person that representation in any collateral proceedings is the responsibility of the capital collateral representative. The public defender shall then forward all original files on the matter to the capital collateral representative, retaining such copies for his or her files as may be desired. However, the trial court shall retain the power to appoint the public defender or other attorney not



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employed by the capital collateral representative to represent such person in proceedings for relief by executive clemency pursuant to ss. 27.40 and 27.5303 ~~s. 925.035~~.

(b) It is the intent of the Legislature that any public defender representing an inmate in any collateral proceedings in any court on June 24, 1985, shall continue representation of that inmate in all postconviction proceedings unless relieved of responsibility from further representation by the court.

~~(6)(7)~~ A sum shall be appropriated to the public defender of each judicial circuit enumerated in subsection (4) for the employment of assistant public defenders and clerical employees and the payment of expenses incurred in cases on appeal.

Section 16. Effective July 1, 2004, section 27.52, Florida Statutes, is amended to read:

27.52 Determination of indigence ~~indigency~~.--

(1)~~(a)~~ The clerk of the circuit court shall determine the indigence of each person applying for appointment of a determination of indigency for purposes of appointing the public defender or private or conflict attorney or any other court-related services based on indigence. This determination shall be made by the court, and may be made at any stage of the proceedings. Before appointing the public defender or a private conflict attorney, or providing any other court-related service based on indigence, the court shall receive the determination of indigence from the clerk. If the clerk has not made this determination at the time a person requests appointment of a public defender or private attorney or provision of any other court-related services, the court consider a completed affidavit that contains the financial information required under paragraph (f) and shall make a preliminary determination of indigence





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~~indigency~~, pending verification by the clerk ~~indigency examiner~~.

The applicant may seek review of the clerk's determination denying indigence in the court having jurisdiction over the matter at the next scheduled hearing.

(2)(a) Any person applying for appointment of a public defender or private attorney or any other court-related services based on indigence shall pay a \$40 application fee to the clerk of court and submit a completed affidavit containing the financial information required under paragraph (f).

(b) The person shall pay the application fee at the time the financial affidavit is filed or within 7 days thereafter. If not paid within 7 days, the applicant shall be enrolled by the clerk in a payment program to recover unpaid fees, in full, with periodic payment amounts corresponding to the applicant's ability to pay.

~~(b) An accused person, or if applicable a parent or legal guardian of an accused minor or an accused adult tax-dependent person, asserting indigency and requesting representation by the public defender or a conflict attorney, shall file with the court a completed affidavit containing the financial information required under paragraph (f) and stating that the affidavit is signed under oath and under penalty of perjury.~~

~~(c) Each person who requests the appointment of the public defender or a conflict attorney shall pay to the clerk of the court an application fee of \$40, as ordered by the court, at the time the financial affidavit is filed, or within 7 days thereafter. If not paid within 7 days, the application fee shall be assessed at sentencing or at the final disposition of the case. The application fee shall be assessed for each affidavit filed against a defendant who requests appointment of the public~~



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~~defender or a conflict attorney.~~ A defendant ~~who is~~ found to be indigent may not be refused counsel or any other court-related services based on indigence for failure to pay the application fee. The defendant shall pay a separate application fee for each affidavit filed.

(d) If the court finds that the accused person applying for representation appears to be indigent based upon the financial affidavit required under paragraph (f), the court shall appoint the public defender or a private ~~conflict~~ attorney to provide representation. If the application fee is not paid prior to the disposition of the case, the clerk shall advise the sentencing judge of this fact and the court shall:

1. Assess the application fee as part of the sentence or as a condition of probation; or
2. Assess the application fee pursuant to s. 938.29.

If the clerk ~~indigency examiner~~ finds discrepancies between the financial affidavit and his or her ~~the examiner's~~ investigation of assets, the clerk ~~indigency examiner~~ shall submit the information to the court and the court shall determine whether the public defender or private ~~conflict~~ attorney shall continue representation. The defendant may be heard regarding the information discovered by the clerk ~~indigency examiner~~. If the court, based on the information provided, determines that the defendant is not indigent, the court shall order ~~that~~ the public defender or private ~~conflict~~ attorney to discontinue representation. Notwithstanding any provision of law or local order to the contrary, the clerk of the court shall assign the first \$40 of any ~~court-assessed~~ fees or costs ~~that are~~ paid by an indigent defendant as payment of ~~for~~ the application fee. In



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no event should a person ~~who is~~ found to be indigent be refused counsel for failure to pay the fee.

(e) All application fees shall be transferred monthly by the clerk of the court to the Department of Revenue for deposit to the Indigent Criminal Defense Trust Fund, administered by the Justice Administrative Commission, to be used to supplement the general revenue funds appropriated by the Legislature to the public defenders. The clerk of the court may retain 2 percent of application fees collected monthly for administrative costs prior to remitting the remainder to the Department of Revenue.

(f) The affidavit must contain the following financial information and calculations as to the applicant's ~~accused person's~~ income:

1. Net income.--Total salary and wages, minus deductions required by law, including court-ordered support payments.

2. Other income.--Including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, unemployment compensation, dividends, interest, rent, trusts, and gifts.

3. Assets.--Including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.

(g) The income of an applicant who is a ~~accused~~ minor or an ~~accused~~ adult tax-dependent person who is substantially supported by a parent or parents or by a guardian, or who continues to be claimed as a dependent for tax purposes, shall include the income of that dependent person's parent or parents



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or guardian, except a parent or guardian who has an adverse interest in the proceeding.

(h) In addition to the financial information, the affidavit must contain the following statement: "I, ... (name of applicant ~~accused person~~) ..., agree to report any change in my financial situation to the court ~~or to the indigency examiner.~~"

~~(3)~~(2)(a) After reviewing the affidavit and questioning the applicant ~~accused person~~, the clerk ~~court~~ shall make one of the following determinations:

1. The applicant ~~accused person~~ is indigent.
2. The applicant ~~accused person~~ is not indigent.

(b) An applicant ~~accused person~~, including an applicant who is a minor or an ~~or an accused minor's or accused~~ adult tax-dependent person ~~person's parent or guardian~~, is indigent if:

1. The income of the person is equal to or below 200 ~~250~~ percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant ~~accused~~ by the United States Department of Health and Human Services or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance ~~Aid to Families with Dependent Children (AFDC)~~, poverty-related veterans' benefits, or Supplemental Security Income (SSI); or

2. The person is unable to pay for the services of an attorney without substantial hardship to his or her family.

(c) In determining whether an applicant ~~a defendant~~ is indigent, the clerk ~~court~~ shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the applicant ~~defendant~~ is not indigent:



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1. The defendant has been released on bail in the amount of \$5,000 or more.

2. The defendant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property.

3. The defendant retained private counsel immediately before or after filing the affidavit asserting indigence ~~indigency~~ pursuant to subsection (2) ~~(1)~~.

(d) A nonindigent parent or legal guardian of an applicant ~~who is a~~ ~~accused~~ minor or an ~~accused~~ adult tax-dependent person shall furnish the minor or adult tax-dependent ~~dependent~~ person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to chapter 985, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section does not bar the appointment of legal counsel pursuant to s. 27.40 or 27.5303 ~~27.53~~. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or a ~~appointed~~ private attorney ~~legal counsel~~ is appointed to represent a ~~an~~ ~~accused~~ minor or an ~~accused~~ adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for payment of the fees, charges, and costs of the ~~such~~ representation even if the person is a minor being tried as an adult. Liability for the fees, charges, and costs of the ~~such~~ representation shall ~~may~~ be imposed in the form of a lien against the property of the nonindigent parents



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or legal guardian of the ~~accused~~ minor or ~~accused~~ adult tax-dependent person. The, which lien shall be ~~is~~ enforceable as provided in s. 27.561 or s. 938.29. ~~The court shall determine the amount of the obligation; and, in determining the amount of the obligation, the court shall follow the procedure outlined by this section.~~

~~(4)(3)~~ If the trial court determines, ~~within 2 years after the determination of indigency,~~ that any applicant ~~accused~~ was erroneously or improperly determined to be indigent, the state attorney shall, in the name of the state, proceed against the applicant ~~such accused~~ for the reasonable value of the services rendered, to the accused and including all fees, charges, and costs paid by the state or county in his or her behalf. Any amount recovered shall be remitted to the Department of Revenue for deposit into the General Revenue Fund ~~board of county commissioners of the county wherein the accused was tried.~~ ~~The funds shall be deposited in the fine and forfeiture fund of that county and be used to defray the expenses incurred by the county with respect to the defense of defendants in criminal prosecutions.~~

(5) An individual determined to be indigent and seeking to defer payment of fees, charges, or costs imposed by operation of law or order of the court under this section or any other provision of general law imposing fees, charges, or costs, shall be enrolled by the clerk in a payment program to recover unpaid costs in full, with periodic payment amounts corresponding to the individual's ability to pay.

Section 17. Effective July 1, 2004, section 27.53, Florida Statutes, is amended to read:

27.53 Appointment of assistants and other staff; method of



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(1) The public defender of each judicial circuit is authorized to employ and establish, in such numbers as authorized by the General Appropriations Act ~~as he or she shall determine~~, assistant public defenders, ~~investigators~~, and other staff and personnel pursuant to s. 29.006, who shall be paid from funds appropriated for that purpose. Notwithstanding the provisions of s. 790.01, s. 790.02, or s. 790.25(2)(a), an investigator employed by a public defender, while actually carrying out official duties, is authorized to carry concealed weapons if the investigator complies with s. 790.25(3)(o). However, such investigators are not eligible for membership in the Special Risk Class of the Florida Retirement System. The public defenders of all judicial circuits shall jointly develop a coordinated classification and pay plan which shall be submitted on or before January 1 of each year to the Justice Administrative Commission, the office of the President of the Senate, and the office of the Speaker of the House of Representatives. Such plan shall be developed in accordance with policies and procedures of the Executive Office of the Governor established in s. 216.181. Each assistant public defender appointed by a public defender under this section shall serve at the pleasure of the public defender. Each investigator employed by a public defender shall have full authority to serve any witness subpoena or court order issued, by any court or judge within the judicial circuit served by such public defender, in a criminal case in which such public defender has been appointed to represent the accused.

(2) Any member of The Florida Bar, in good standing, may volunteer ~~register his or her availability to the public~~



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~~defender of any judicial circuit for acceptance of special assignments~~ without salary to represent indigent defendants. Volunteer attorneys are to be ~~Such persons shall be listed and referred to as special assistant public defenders and be paid a fee and costs and expenses as provided in s. 925.036.~~ A special assistant public defender may not reassign or subcontract a case to another attorney.

~~(3) If, at any time during the representation of two or more indigents, the public defender determines that the interests of those accused are so adverse or hostile that they cannot all be counseled by the public defender or his or her staff without conflict of interest, or that none can be counseled by the public defender or his or her staff because of conflict of interest, the public defender shall file a motion to withdraw and move the court to appoint other counsel. The court shall review and may inquire or conduct a hearing into the adequacy of the public defender's representations regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall permit withdrawal unless the court determines that the asserted conflict is not prejudicial to the indigent client. If the court grants the motion to withdraw, it may appoint one or more members of The Florida Bar, who are in no way affiliated with the public defender, in his or her capacity as such, or in his or her private practice, to represent those accused. However, the trial court shall appoint such other counsel upon its own motion when the facts developed upon the face of the record and files in the cause disclose such conflict. The court shall advise the appropriate public defender and clerk of court, in writing, when making such appointment and state the conflict prompting the~~





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~~appointment. The appointed attorney shall be compensated as provided in s. 925.036.~~

~~(3)(4)~~ The appropriations for the offices of public defender shall be determined by a funding formula and such other factors as may be deemed appropriate in a manner to be determined by this section ~~subsection~~ and the General ~~any subsequent~~ Appropriations Act.

Section 18. Subsection (1) of section 27.5301, Florida Statutes, is amended to read:

27.5301 Salaries of public defenders and assistant public defenders.--

(1) The salaries of public defenders, ~~to be paid by the state,~~ shall be as provided in the General Appropriations Act and shall be paid in equal monthly installments.

Section 19. Effective July 1, 2004, section 27.5303, Florida Statutes, is created to read:

27.5303 Public defenders; conflict of interest.--

(1)(a) If, at any time during the representation of two or more defendants, a public defender determines that the interests of those accused are so adverse or hostile that they cannot all be counseled by the public defender or his or her staff without conflict of interest, or that none can be counseled by the public defender or his or her staff because of a conflict of interest, then the public defender shall file a motion to withdraw and move the court to appoint other counsel. If requested by the Justice Administrative Commission, the public defender shall submit a copy of the motion to the Justice Administrative Commission at the time it is filed with the court. The Justice Administrative Commission shall have standing to appear before the court to contest any motion to withdraw due



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to a conflict of interest. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion to withdraw due to a conflict of interest. The court shall review and may inquire or conduct a hearing into the adequacy of the public defender's representations regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall deny the motion to withdraw if the court finds the grounds for withdrawal are insufficient or the asserted conflict is not prejudicial to the indigent client. If the court grants the motion to withdraw, the court shall appoint one or more attorneys to represent the accused.

(b) Upon its own motion, the court shall appoint such other counsel when the facts developed upon the face of the record and court files in the case disclose a conflict of interest. The court shall advise the appropriate public defender and clerk of court, in writing, with a copy to the Justice Administrative Commission, if so requested by the Justice Administrative Commission, when making the motion and appointing one or more attorneys to represent the accused. The court shall specify the basis for the conflict.

(c) In no case shall the court approve a withdrawal by the public defender based solely upon inadequacy of funding or excess workload of the public defender.

(d) In determining whether or not there is a conflict of interest, the public defender and the court shall apply the standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board.



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(2) The court shall appoint conflict counsel pursuant to s. 27.40. The appointed attorney may not be affiliated with the public defender or any assistant public defender in his or her official capacity or any other private attorney appointed to represent a codefendant. The public defender may not participate in case-related decisions, performance evaluations, or expense determinations in conflict cases.

(3) Private court-appointed counsel shall be compensated as provided in s. 27.5304 in accordance with compensation standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board.

(4)(a) If a defendant is convicted and the death sentence is imposed, the appointed attorney shall continue representation through appeal to the Supreme Court. The attorney shall be compensated as provided in s. 27.5304. If the attorney first appointed is unable to handle the appeal, the court shall appoint another attorney and that attorney shall be compensated as provided in s. 27.5304.

(b) The public defender or an attorney appointed pursuant to this section may be appointed by the court rendering the judgment imposing the death penalty to represent an indigent defendant who has applied for executive clemency as relief from the execution of the judgment imposing the death penalty.

(c) When the appointed attorney in a capital case has completed the duties imposed by this section, the attorney shall file a written report in the trial court stating the duties performed by the attorney and apply for discharge.

Section 20. Effective July 1, 2004, section 27.5304, Florida Statutes, is created to read:



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27.5304 Private court-appointed counsel; compensation.--

(1) Private court-appointed counsel shall be compensated by the Justice Administrative Commission in accordance with standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board. However, compensation shall not exceed the maximum fee limits established by this section. The attorney also shall be reimbursed for reasonable and necessary expenses in accordance with s. 29.007. If the attorney is representing a defendant charged with more than one offense in the same case, the attorney shall be compensated at the rate provided for the most serious offense for which he or she represented the defendant. This section does not allow stacking of the fee limits established by this section.

(2) Prior to filing a motion for an order approving payment of attorney's fees, costs, or related expenses, the private court-appointed counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and reasons therefor shall be communicated to the private court-appointed counsel. The private court-appointed counsel may thereafter file his or her motion for order approving payment of attorney's fees, costs, or related expenses together with supporting affidavits and all other necessary documentation. The motion must specify whether the Justice Administrative Commission objects to any portion of



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the billing or the sufficiency of documentation and, if so, the reasons therefor. A copy of the motion and attachments shall be served on the Justice Administrative Commission. The Justice Administrative Commission shall have standing to appear before the court to contest any motion for order approving payment of attorney's fees, costs, or related expenses. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for order approving payment of attorney's fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court. The court retains primary authority and responsibility for determining the reasonableness of all billings for fees, costs, and related expenses, subject to statutory limitations.

(3) The compensation for representation in a criminal proceeding shall not exceed the following:

(a)1. For misdemeanors and juveniles represented at the trial level: \$1,000.

2. For noncapital, nonlife felonies represented at the trial level: \$2,500.

3. For life felonies represented at the trial level: \$3,000.

4. For capital cases represented at the trial level: \$3,500.

5. For representation on appeal: \$2,000.

(b) If a death sentence is imposed and affirmed on appeal to the Supreme Court, the appointed attorney shall be allowed compensation, not to exceed \$1,000, for attorney's fees and



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costs incurred in representing the defendant as to an application for executive clemency, with compensation to be paid out of general revenue from funds budgeted to the Department of Corrections.

(4) By January 1, 2004, the Article V Indigent Services Advisory Board shall recommend to the Legislature any adjustments to existing compensation schedules for criminal proceedings and any proposed compensation standards for private attorneys providing representation in civil proceedings in which private court-appointed counsel is required.

(5) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding under s. 39.0134, such compensation shall not exceed \$1,000 at the trial level and \$2,500 at the appellate level.

(6) A private attorney appointed in lieu of the public defender to represent an indigent defendant may not reassign or subcontract the case to another attorney or allow another attorney to appear at a critical stage of a case who does not meet standards adopted by the Legislature after any recommendations from the Article V Indigent Services Advisory Board.

Section 21. Effective July 1, 2004, section 27.54, Florida Statutes, is amended to read:

27.54 Limitation on payment of expenditures for public defender's office other than by the state.--

(1) All payments for the salary of the public defender and the necessary expenses of office, including salaries of assistants and staff, shall be considered as being for a valid public purpose. Travel expenses shall be paid in accordance with



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the provisions of s. 112.061.

(2) A ~~No~~ county or municipality may not contract with, or shall appropriate or contribute funds to, the operation of the offices of the various public defenders for the purpose of defending, ~~except that a county or municipality may appropriate or contribute funds to:~~

~~(a) Pay the salary of one assistant public defender whose sole function shall be to defend indigents charged with violations of special laws, unless expressly authorized, or with violations of ordinances of the county or municipality, unless ancillary to a state prosecution.~~

~~(b) Employ legal and support staff to be supervised by the public defender upon certification by the public defender that inadequate resources will result in withdrawal from current cases or inability to accept additional appointments.~~

~~(3) The public defenders shall be provided by the counties within their judicial circuits with such office space, utilities, telephone services, custodial services, library services, transportation services, and communication services as may be necessary for the proper and efficient functioning of these offices, except as otherwise provided in the General Appropriations Act. The public defender's offices shall also be provided with pretrial consultation fees for expert or other potential witnesses consulted before trial by the public defender; travel expenses incurred in criminal cases by a public defender in connection with out-of-jurisdiction depositions; out-of-state and out-of-jurisdiction travel expenses incurred by public defenders or by investigators of public defenders while attempting to locate and interrogate witnesses for the public defender in the defense of a criminal case; court reporter costs~~



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~~incurred by the public defender during the course of an investigation and criminal prosecution, which costs are certified by the public defender as being useful and necessary in the preparation of a criminal defense, provided that nothing herein shall be construed to prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought; postindictment and postinformation deposition costs incurred by the public defender during the course of a criminal prosecution of an indigent defendant when such costs are certified by the public defender as being useful and necessary in the preparation of a criminal defense, provided that nothing herein shall be construed to prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought; and the cost of copying depositions of defense witnesses taken by the state attorney when such costs are certified by the public defender as being useful and necessary in the preparation of a criminal defense, provided that nothing herein shall be construed to prohibit the county from contesting the reasonableness of the expenditure in the court wherein the criminal case is brought. The office space and utilities to be provided by the counties shall not be less than the standards for space allotment adopted by the Department of Management Services. The counties shall not provide less of these services than were provided in the previous fiscal year.~~

(3)~~(4)~~ No public defender or assistant public defender shall receive from any county or municipality any supplemental salary, except as provided in this section.

Section 22. Effective July 1, 2004, section 27.562, Florida Statutes, is amended to read:





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27.562 Disposition of funds.--All funds collected pursuant to s. 938.29, except the application fee imposed under s. 27.52, shall be remitted to the Department of Revenue for deposit into the General Revenue Fund ~~board of county commissioners of the county in which the judgment was entered. Such funds shall be placed in the fine and forfeiture fund of that county to be used to defray the expenses incurred by the county in defense of eriminal prosecutions.~~ All judgments entered pursuant to this part shall be in the name of the state county ~~in which the judgment was rendered.~~

Section 23. Effective July 1, 2004, section 27.58, Florida Statutes, is amended to read:

27.58 Administration of public defender services.--The public defender of each judicial circuit of the state shall be the chief administrator of all public defender services authorized under s. 27.51 ~~within the circuit whether such services are rendered by the state or county public defenders.~~

Section 24. Effective July 1, 2004, paragraph (b) of subsection (3) of section 27.702, Florida Statutes, is amended to read:

27.702 Duties of the capital collateral regional counsel; reports.--

(3)

(b) The court having jurisdiction over any nonindigent or indigent-but-able-to-contribute defendant who has been receiving the services of the capital collateral regional counsel may assess attorney's fees and costs against the defendant at any stage in the proceedings as the court may deem appropriate. The determination of indigence ~~indigency or nonindigency~~ of any defendant shall be made ~~by the court~~ pursuant to s. 27.52.



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Liability for the costs of such representation may be imposed in the form of a lien against the property of the nonindigent or indigent-but-able-to-contribute defendant, which lien shall be enforceable as provided in s. 27.561 or s. 938.29.

Section 25. Effective July 1, 2004, subsection (2) of section 28.101, Florida Statutes, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.--

(2) Upon receipt of a final judgment of dissolution of marriage for filing, and in addition to the filing charges in s. 28.241, the clerk may ~~shall~~ collect and receive a service charge of up to \$10.50 ~~\$7~~ pursuant to s. 382.023 for the recording and reporting of such final judgment of dissolution of marriage to the Department of Health.

Section 26. Section 43.195, Florida Statutes, is renumbered as section 28.213, Florida Statutes, and amended to read:

28.213 ~~43.195~~ Disposal of physical evidence filed as exhibits.--The clerk of any circuit court or county court may dispose of items of physical evidence which have been held as exhibits in excess of 3 years in cases on which no appeal, or collateral attack, is pending or can be made. Items of evidence having no monetary value which are designated by the clerk for removal shall be disposed of as unusable refuse. Items of evidence having a monetary value which are designated for removal by the clerk shall be sold and the revenue placed in the clerk's general revenue fund.

Section 27. Effective July 1, 2004, section 28.215, Florida Statutes, is created to read:



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28.215 Pro se assistance.--The clerk of the circuit court shall provide ministerial assistance to pro se litigants. Assistance shall not include the provision of legal advice.

Section 28. Effective July 1, 2004, section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.--The clerk of the circuit court may charge ~~shall make the following charges~~ for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to any justice or judge, to any court staff acting on behalf of any justice or judge, and to any state attorney or public defender access to and copies of any public records, notwithstanding the exempt or confidential nature of such public records, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration ~~However, in those counties where the clerk's office operates as a fiscal unit of the county pursuant to s. 145.022(1), the clerk shall not charge the county for such services.~~

Charges

- ~~(1) For court attendance by each clerk or deputy clerk, per day~~
- ~~.....\$75.00~~
- ~~(2) For court minutes, per page.....5.00~~
- (1)(3) For examining, comparing, correcting, verifying,



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and certifying transcripts of record in appellate proceedings,  
 prepared by attorney for appellant or someone else other than  
 clerk per page.....4.50 ~~3.00~~

(2)~~(4)~~ For preparing, numbering, and indexing an original  
 record of appellate proceedings, per instrument.....3.00 ~~2.00~~

(3)~~(5)~~ For certifying copies of any instrument in the  
 public records.....1.50 ~~1.00~~

(4)~~(6)~~ For verifying any instrument presented for  
 certification prepared by someone other than clerk, per  
 page.....3.00 ~~2.00~~

~~(7) For making and reporting payrolls of jurors to State  
 Comptroller, per page, per copy.....5.00~~

(5)~~(8)~~(a) For making copies by photographic process of any  
 instrument in the public records consisting of pages of not more  
 than 14 inches by 8 1/2 inches, per page.....1.00

(b) For making copies by photographic process of any  
 instrument in the public records of more than 14 inches by 8 1/2  
 inches, per page.....5.00

(6)~~(9)~~ For making microfilm copies of any public records:

(a) 16 mm 100' microfilm roll.....37.50 ~~25.00~~

(b) 35 mm 100' microfilm roll.....52.50 ~~35.00~~

(c) Microfiche, per fiche.....3.00 ~~2.00~~

(7)~~(10)~~ For copying any instrument in the public records  
 by other than photographic process, per page.....6.00  
~~4.00~~

(8)~~(11)~~ For writing any paper other than herein  
 specifically mentioned, same as for copying, including signing  
 and sealing.....6.00 ~~4.00~~

(9)~~(12)~~ For indexing each entry not recorded.....1.00

(10)~~(13)~~ For receiving money into the registry of court:



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- (a)1. First \$500, percent.....3 ~~2~~
- 2. Each subsequent \$100, percent.....1.5 ~~1~~
- (b) Eminent domain actions, per deposit....\$150.00 ~~\$100.00~~
- (11)~~(14)~~ For examining, certifying, and recording plats and for recording condominium exhibits larger than 14 inches by 8 1/2 inches:
  - (a) First page.....30.00
  - (b) Each additional page.....15.00
  - (12)~~(15)~~ For recording, indexing, and filing any instrument not more than 14 inches by 8 1/2 inches, including required notice to property appraiser where applicable:
    - (a) First page or fraction thereof.....5.00
    - (b) Each additional page or fraction thereof.....4.00
    - (c) For indexing instruments recorded in the official records which contain more than four names, per additional name.....1.00
    - (d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:
      - 1. First page.....1.00
      - 2. Each additional page.....0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the



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circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

(13)~~(16)~~ Oath, administering, attesting, and sealing, not otherwise provided for herein.....3.00 ~~2.00~~

(14)~~(17)~~ For validating certificates, any authorized bonds,



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each.....	<u>3.00</u>	<del>2.00</del>
<u>(15)</u> <del>(18)</del> For preparing affidavit of domicile.....	5.00	
<u>(16)</u> <del>(19)</del> For exemplified certificates, including signing and sealing.....	<u>6.00</u>	<del>4.00</del>
<u>(17)</u> <del>(20)</del> For authenticated certificates, including signing and sealing.....	<u>6.00</u>	<del>4.00</del>
<u>(18)</u> <del>(21)</del> (a) For issuing and filing a subpoena for a witness, not otherwise provided for herein (includes writing, preparing, signing, and sealing).....	<u>6.00</u>	<del>4.00</del>
(b) For signing and sealing only.....	<u>1.50</u>	<del>1.00</del>
<del>(22)</del> For issuing venire facias (includes writing, preparing, signing, and sealing).....	<del>5.00</del>	
<del>(23)</del> For paying of witnesses and making and reporting payroll to State Comptroller, per copy, per page.....	<del>5.00</del>	
<u>(19)</u> <del>(24)</del> For approving bond.....	<u>7.50</u>	<del>5.00</del>
<u>(20)</u> <del>(25)</del> For searching of records, for each year's search.....	<u>1.50</u>	<del>1.00</del>
<u>(21)</u> <del>(26)</del> For processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds.....	60.00	
<u>(22)</u> <del>(27)</del> For disbursement of excess proceeds of tax deed sale, first \$100 or fraction thereof.....	10.00	
<u>(23)</u> <del>(28)</del> Upon receipt of an application for a marriage license, for preparing and administering of oath; issuing, sealing, and recording of the marriage license; and providing a certified copy.....	<u>30.00</u>	<del>20.00</del>
<u>(24)</u> <del>(29)</del> For solemnizing matrimony.....	<u>30.00</u>	<del>20.00</del>
<u>(25)</u> <del>(30)</del> For sealing any court file or expungement of any record.....	<u>37.50</u>	<del>25.00</del>



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(26)~~(31)~~ For receiving and disbursing all restitution payments, per payment.....3.00 ~~2.00~~

(27)~~(32)~~ Postal charges incurred by the clerk of the circuit court in any mailing by certified or registered mail shall be paid by the party at whose instance the mailing is made.

(28)~~(33)~~ For furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119.

Section 29. Effective July 1, 2004, section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges in probate matters.--

(1) Except when otherwise provided, the clerk may impose service charges for the following services, not to exceed the following amounts shall be:

(a) For the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe-deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary ~~and family~~ administration.....\$100 ~~\$20.00~~

(b) Caveat.....\$35 ~~15.00~~

(c) Petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record.....\$100 ~~30.00~~

(d) For disposition of personal property without administration.....\$100 ~~20.00~~

(e) Summary administration -- estates valued at \$1,000 or





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more.....\$200 ~~35.00~~

(f) Summary Family administration -- estates valued at  
less than \$1,000.....\$100  
~~45.00~~

(g) Formal administration, guardianship, ancillary,  
 curatorship, or conservatorship proceedings.....\$250 ~~75.00~~

(h) Guardianship proceedings of person  
 only.....\$100 ~~25.00~~

(i) Veterans' guardianship pursuant to chapter  
 744.....\$100 ~~25.00~~

(j) Exemplified certificates.....\$6 ~~4.00~~

(k) Petition for determination of  
 incompetency.....\$100.00 ~~25.00~~

(2) Upon application by the clerk and a showing of  
 extraordinary circumstances, the service charges set forth in  
 this section may be increased in an individual matter by order  
 of the circuit court before which the matter is pending, to more  
 adequately compensate for the services performed.

~~(3) Service charges in excess of those fixed in this  
 section may be imposed by the governing authority of the county  
 by ordinance, or by special or local law, to provide and  
 maintain facilities, including a law library; to or local law,  
 to provide and maintain facilities, including a law library; to  
 provide and maintain equipment; or to provide or maintain a  
 legal aid program. Service charges other than those fixed in  
 this section shall be governed by s. 28.24. An additional  
 service charge of \$2.50 on petitions seeking summary  
 administration, family administration, formal administration,  
 ancillary administration, guardianship, curatorship, and  
 conservatorship shall be paid to the clerk. The clerk shall~~



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transfer the \$2.50 to the Department of Revenue for deposit into the Court Education Trust Fund. No additional fees, charges, or costs shall be added to the service charges imposed under this section, except as authorized by general law.

(4) Recording shall be required for all petitions opening and closing an estate; petitions regarding real estate; and orders, letters, bonds, oaths, wills, proofs of wills, returns, and such other papers as the judge shall deem advisable to record or that shall be required to be recorded under the Florida Probate Law.

Section 30. Effective July 1, 2004, section 28.2402, Florida Statutes, is created to read:

28.2402 Additional costs for performance of clerk court-related functions.--The sum of \$200 shall be assessed to a county or municipality when filing a county or municipal code or ordinance violation in court. The \$200 fee shall be paid to the clerk of the circuit and county court for performing court-related functions.

Section 31. Subsection (1) of section 28.241, Florida Statutes, is amended to read:

28.241 Filing charges for trial and appellate proceedings.--

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a service charge of \$40 in all cases in which there are not more than five defendants and an additional service charge of \$2 for each defendant in excess of five. An additional service charge of \$10 shall be paid by the party seeking each severance that is granted. An additional service charge of \$35 shall be paid to the clerk for all proceedings of garnishment,



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attachment, replevin, and distress. An additional service charge of \$8 shall be paid to the clerk for each civil action filed, \$7 of such charge to be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund unallocated. An additional charge of \$2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be remitted by the clerk to the Department of Revenue for deposit into the Court Education Trust Fund. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law; and such excess shall be expended as provided by such ordinance or any special or local law, now or hereafter in force, to provide and maintain facilities, including a law library, for the use of the courts of the county wherein the service charges are collected; to provide and maintain equipment; or for a legal aid program in such county. In addition, the county is authorized to impose, by ordinance or by special or local law, a fee of up to \$15 for each civil action filed, for the establishment, maintenance, or supplementation of a public guardian pursuant to ss. 744.701-744.708, inclusive. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. That part of the within fixed or allowable service charges which is not by local or special law applied to the special purposes shall constitute the total service charges of the clerk of such court for all services performed by him or her in civil actions, suits, or proceedings. The sum of all service charges and fees permitted under this subsection may not exceed \$200; however, the \$200 cap may be increased to \$210 in order to provide for the establishment,



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maintenance, or supplementation of a public guardian as indicated in this subsection.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of \$50. Of fees collected for any civil action, suit, or proceeding reopened in the circuit court between July 1, 2003, and June 30, 2004, the clerk shall remit \$49 of each \$50 collected to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund and shall retain the remaining \$1 for administrative costs. In the case of a petition for modification of a final judgment of dissolution, the amount of the fee paid pursuant to s. 44.108 shall be deducted from the portion of the fee required in this paragraph which is not retained by the clerk. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court.

Section 32. Effective July 1, 2004, section 28.241, Florida Statutes, as amended by this act, is amended to read:

28.241 Filing fees ~~charges~~ for trial and appellate proceedings.--

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee ~~a service charge~~ of up to \$250 ~~\$40~~ in all cases in which there are not more than five defendants and an additional filing fee ~~service charge~~ of up to \$2 for each defendant in excess of five. Of the first \$57.50 in filing fees, \$50 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund; \$5 must be remitted to the Clerk of Court Operations Conference; and \$2.50 shall be paid to the clerk for each civil action brought in circuit or



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county court, to be remitted by the clerk to the Department of Revenue for deposit into the Court Education Trust Fund. One-third of any filing fees collected by the clerk of the circuit court in excess of \$57.50 shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. An additional filing fee service charge of up to \$15 ~~\$10~~ shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee service charge of up to \$75 ~~\$35~~ shall be paid to the clerk for all proceedings of garnishment, attachment, replevin, and distress. ~~An additional service charge of \$8 shall be paid to the clerk for each civil action filed, \$7 of such charge to be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund unallocated. An additional charge of \$2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be remitted by the clerk to the Department of Revenue for deposit into the Court Education Trust Fund. Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law; and such excess shall be expended as provided by such ordinance or any special or local law, now or hereafter in force, to provide and maintain facilities, including a law library, for the use of the courts of the county wherein the service charges are collected; to provide and maintain equipment; or for a legal aid program in such county. In addition, the county is authorized to impose, by ordinance or by special or local law, a fee of up to \$15 for each civil action filed, for the establishment, maintenance, or supplementation of a public guardian pursuant to ss. 744.701-744.708, inclusive.~~ Postal charges incurred by the clerk of the



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circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. No additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized by general law. ~~That part of the within fixed or allowable service charges which is not by local or special law applied to the special purposes shall constitute the total service charges of the clerk of such court for all services performed by him or her in civil actions, suits, or proceedings. The sum of all service charges and fees permitted under this subsection may not exceed \$200; however, the \$200 cap may be increased to \$210 in order to provide for the establishment, maintenance, or supplementation of a public guardian as indicated in this subsection.~~

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of ~~that~~ court a filing fee set by the clerk in an amount not to exceed of \$50. ~~Of fees collected for any civil action, suit, or proceeding reopened in the circuit court between July 1, 2003, and June 30, 2004, the clerk shall remit \$49 of each \$50 collected to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund and shall retain the remaining \$1 for administrative costs. In the case of a petition for modification of a final judgment of dissolution, the amount of the fee paid pursuant to s. 44.108 shall be deducted from the portion of the fee required in this paragraph which is not retained by the clerk. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court and includes petitions for modification of a final judgment of dissolution.~~



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~~(2) The clerk of the circuit court of any county in the state who operates his or her office from fees and service charges collected, as opposed to budgeted allocations from county general revenue, shall be paid by the county as service charges for all services to be performed by him or her in any criminal or juvenile action or proceeding in such court, in lieu of all other service charges heretofore charged, except as hereinafter provided, the sum of \$40 for each defendant or juvenile. However, in cases involving capital punishment the charge shall be \$50. In any county where a law creates a law library fund or other special fund, this charge may be increased for that purpose by a special or local law or an ordinance. The sum of all service charges and fees permitted under this subsection may not exceed \$200.~~

~~(2)(3)~~ Upon the institution of any appellate proceeding from any inferior court to the circuit court of any such county or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a service charge of up to \$250 ~~\$75~~ for filing a notice of appeal from an inferior court or ~~and~~ ~~\$50~~ for filing a notice of appeal to a higher court.

~~(3)(4)~~ A filing service charge ~~or a fee~~ may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, proceeding, or appeal in a circuit court.

~~(4)(5)~~ The fees prescribed in this section do not include the service charges required by law for the clerk as provided in s. 28.24 or by other sections of the Florida Statutes. Filing fees ~~Service charges~~ authorized by this section may not be added to any civil penalty imposed by chapter 316 or chapter 318.



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Section 33. Effective July 1, 2004, section 28.245, Florida Statutes, is amended to read:

28.245 Transmittal of funds to Department of Revenue; uniform remittance form required.--Notwithstanding any other provision of law, all moneys collected by the clerks of the court for subsequent distribution must be transmitted electronically to a state agency or to the Supreme Court must be transmitted to the Department of Revenue for appropriate distribution. A uniform remittance form provided by the Department of Revenue detailing the specific amounts due each fund must accompany such submittal.

Section 34. Section 28.246, Florida Statutes, is created to read:

28.246 Payment of court-related fees, charges, and costs; partial payments; distribution of funds.--

(1) Beginning July 1, 2003, the clerk of the circuit court shall report the following information to the Legislature and the Clerk of Court Operations Conference on a form developed by the Department of Financial Services:

(a) The total amount of mandatory fees, services charges, and costs; the total amount actually assessed; the total amount discharged or waived; and the total amount collected.

(b) The maximum amount of discretionary fees, service charges, and costs authorized; the total amount actually assessed; the total amount discharged or waived; and the total amount collected.

(c) The total amount of mandatory fines and other monetary penalties; the total amount assessed; the total amount discharged or waived; and the total amount collected.

(d) The maximum amount of discretionary fines and other





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monetary penalties; the total amount assessed; the total amount discharged or waived; and the total amount collected.

The clerk shall submit the report on a quarterly basis 30 days after the end of the quarter for the period from July 1, 2003 through June 30, 2004, and on an annual basis thereafter, 60 days after the end of the county fiscal year.

(2) The clerk of the circuit court shall establish and maintain a system of accounts receivable for court-related fees, charges, and costs.

(3) Court costs, fines, and other dispositional assessments shall be enforced by the courts, collected by the clerks of the circuit and county courts, and disbursed in accordance with authorizations and procedures as established by general law. Each clerk of the circuit court shall enter into a payment plan with defendants determined to be indigent and demonstrating an inability to pay court-related fees, charges, and costs in full.

(4) The clerk of the circuit court shall accept partial payments for unpaid court-related fees, charges, and costs in accordance with the terms of an established payment plan.

(5) When receiving partial payment of fees, service charges, court costs, and fines, clerks shall distribute funds according to the following order of priority:

(a) That portion of fees, services charges, court costs, and fines payable to the clerk for the operations of the clerk and to be remitted to the state for deposit into the General Revenue Fund.

(b) That portion of fees, service charges, court costs, and fines payable to state trust funds, allocated on a pro rata



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basis among the various authorized funds if the total collection amount is insufficient to fully fund all such funds as provided by law.

(c) That portion of fees, service charges, court costs, and fines payable to counties, municipalities, or other local entities, allocated on a pro rata basis among the various authorized recipients if the total collection amount is insufficient to fully fund all such recipients as provided by law.

To offset processing costs, clerks may retain up to 1 percent of all collections of fees, service charges, court costs, and fines payable to other entities, except where otherwise provided in general law.

(6) A clerk of court may pursue the collection of any fees, fines, court costs, or other costs imposed by the court which remain unpaid for 90 days or more, or refer such collection to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the clerk of the court must determine this is cost effective and follow applicable procurement practices.

Section 35. Section 28.345, Florida Statutes, is created to read:

28.345 Exemption from fees and charges.--Notwithstanding any other provision of this chapter or law to the contrary, state attorneys and public defenders are exempt from all fees and charges assessed by the clerks of the circuit courts.



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Section 36. Section 28.35, Florida Statutes, is created to read:

28.35 Clerk of Court Operations Conference.--

(1) The Clerk of Court Operations Conference is created and shall be composed of:

(a) Eight clerks elected by the clerks of the courts for a term of 2 years, with two clerks from counties of fewer than 100,000 residents, two clerks from counties of at least 100,000 residents but fewer than 500,000 residents, two clerks from counties of at least 500,000 residents but fewer than 1 million residents, and two clerks from counties of more than 1 million residents.

(b) The Chief Justice of the Supreme Court or his or her designee.

(2) The duties of the conference shall include:

(a) Periodically recommending to the Legislature changes in the various court-related fines, fees, service charges, and cost schedules established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

(b) Establishing a process for the review and approval of court-related proposed budgets submitted by clerks of the court pursuant to s. 28.36.

(c) Certifying to the Legislature, the Governor, the Chief Financial Officer, and the Department of Revenue which clerks of court will have court-related revenues insufficient to fund the anticipated court-related functions of their offices and the actions taken to resolve any deficits pursuant to s. 28.36.

(d) Developing and approving a system of performance accountability measurements and performance standards for each



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clerk of the court. These measures must assess the fiscal management, efficient operations, and effective collection of fines, fees, service charges, and costs using data reported in 28.246 as well as other data.

(e) Publishing a schedule of maximum fines, fees, service charges, and costs that may be charged by a clerk of the court for court-related functions pursuant to general law that reflects any adjustments based on changes in the Consumer Price Index. Effective July 1, 2004, the schedule shall reflect the maximum fines, fees, service charges, and costs established by general law. The schedule may be adjusted on or after October 1, 2005, and no more frequently than annually thereafter, by the average percentage change in the Consumer Price Index issued by the United States Department of Labor since the last adjustment by the conference. Any adjustment to the schedule authorized in this paragraph must be affirmatively approved by a majority of the clerks of the circuit courts before such adjustments may take effect.

(3) The Clerk of Court Operations Conference shall maintain a public depository to receive funds for its operations. The Clerk of Court Operations Conference shall receive a portion of the fees collected by the clerk for filing a civil action in circuit court as specified in s. 28.241. These funds shall be available to the conference for the performance of the duties and responsibilities as set forth in this section. The conference may hire staff and pay for other expenses from this fund only as necessary to perform the official duties and responsibilities of the conference as described in this section.

(4) The Clerk of Court Operations Conference shall submit an annual audited financial statement to the Auditor General in



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a form and manner prescribed by the Auditor General. The Auditor General shall conduct an annual audit of the operations of the conference, including the use of funds and compliance with the provisions of this section and ss. 28.36 and 28.37.

Section 37. Section 28.36, Florida Statutes, is created to read:

28.36 Budget review and approval procedure.--There is established a budget procedure for the court-related functions of the clerks of the court.

(1) For the period July 1, 2004, through September 30, 2004, and for each county fiscal year ending September 30 thereafter, each clerk of the court shall prepare a budget relating solely to the performance of the court-related functions.

(2) Each proposed budget shall conform to the following requirements:

(a) On May 1, 2004, for the fiscal period of July 1, 2004, through September 30, 2004, and on or before August 1 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerk of Court Operations Conference in the manner and form prescribed by the conference. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the court-related functions of the clerk's office for the county fiscal year beginning the following October 1.

(b) The proposed budget must be balanced, such that the total of the estimated revenues available must equal or exceed the total of the anticipated expenditures. These revenues include the following: cash balances brought forward from the



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prior fiscal period; supplemental revenue that may be requested pursuant to subsection (3); and the contingency reserve authorized in paragraph (c). The anticipated expenditures must be itemized as required by the Clerk of Court Operations Conference.

(c) The proposed budget may include a contingency reserve not to exceed 10 percent of the total budget.

(3) If a clerk of the court estimates that available revenues are insufficient to meet the anticipated expenditures for the court-related functions performed by his or her office, the clerk must report the budget deficit to the Clerk of Court Operations Conference in the manner and form prescribed by the conference. The conference shall determine whether the clerk is meeting his or her performance standards for the current year relating to fiscal management, efficient operations, and the effective collection of fines, fees, service charges, and costs.

(a) If the conference determines that a clerk is meeting his or her performance standards for fiscal management; efficient operations; and effective collection of fines, fees, service charges, and costs; and a deficit is projected, that clerk shall increase all fines, fees, service charges, and costs to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less. If, after increasing such fines, fees, service charges, and costs, a budget deficit is still projected, the conference shall certify a deficit and notify the Department of Revenue that that clerk is authorized to retain revenues, in an amount necessary to fully fund the projected deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund pursuant to



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s. 28.37. If a budget deficit is projected after retaining all of the collections from court-related fines, fees, service charges, and costs, the conference shall certify the deficit amount to the Chief Financial Officer. An amount equal to the deficit is hereby appropriated each year from the Department of Revenue Clerks of the Court Trust Fund, without further legislative action, period after period, until altered or revoked by the Legislature. The Department of Revenue is directed to make a monthly distribution of equal amounts to each clerk certified to have a deficit until the Clerk of Court Operations Conference certifies a different amount to be distributed.

(b) The Clerk of Court Operations Conference shall notify the Governor, the President of the Senate, and the Speaker of the House of Representatives prior to taking actions specified in this subsection. The notification shall include a certification by the conference that all of the conditions in this subsection have been met.

(4) The Clerk of Court Operations Conference must approve the court-related budget for each clerk in the state, and shall certify to the Legislature by October 15 of each year, the proposed budget amount approved for each clerk's budget; the revenue projection supporting each clerk's budget; each clerk who must retain some or all of the state's share of fines, fees, service charges, and costs; the amount to be paid from the Department of Revenue Clerks of the Court Trust Fund to each clerk; and the performance measures and standards approved by the conference for each clerk.

(5)(a) For the county fiscal year October 1, 2004, through September 30, 2005, the maximum annual budget amount that may be



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authorized by the Clerk of Court Operations Conference for each clerk may not exceed 103 percent of the clerk's actual expenditures for the prior county fiscal year for court-related functions that are required by law effective July 1, 2004. The conference shall use the clerk's actual expenditures for the prior county fiscal year for court-related functions as reported by the Chief Financial Officer based on the county financial reporting required under s. 218.32.

(b) For the county fiscal year 2005-2006, the maximum budget amount that may be authorized by the conference for each clerk budget shall be the approved budget for county fiscal year 2004-2005 adjusted by the projected percentage change in revenue between the county fiscal years 2004-2005 and 2005-2006.

(c) For the county fiscal years 2006-2007 and thereafter, the maximum budget amount that may be authorized by the conference for each clerk shall be established by first rebasing the prior fiscal year budget to reflect the actual percentage change in the prior fiscal year revenue and then adjusting the rebased prior fiscal year budget by the projected percentage change in revenue for the proposed budget year. The rebasing calculations and maximum annual budget calculations shall be as follows:

1. For county fiscal year 2006-2007, the approved budget for county fiscal year 2004-2005 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2005, and June 30, 2006. This result is the rebased budget for the county fiscal year 2005-2006. Then the rebased budget for the county fiscal year 2005-2006 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2005-2006 and 2006-2007. This result





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shall be the maximum annual budget amount that may be authorized by the conference for each clerk for the county fiscal year 2006-2007.

2. For county fiscal year 2007-2008, the rebased budget for county fiscal year 2005-2006 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2006, and June 30, 2007. This result is the rebased budget for the county fiscal year 2006-2007. The rebased budget for county fiscal year 2006-2007 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2006-2007 and 2007-2008. This result shall be the maximum annual budget amount that may be authorized by the conference for each clerk budget for county fiscal year 2007-2008.

3. For county fiscal years 2008-2009 and thereafter, the maximum budget amount that may be authorized by the conference for each clerk budget shall be calculated as the rebased budget for the prior county fiscal year adjusted by the projected percentage change in revenues between the prior county fiscal year and the county fiscal year for which the maximum budget amount is being authorized. The rebased budget for the prior county fiscal year shall always be calculated by adjusting the rebased budget for the year preceding the prior county fiscal year by the actual percentage change in revenues between the 12-month period ending June 30 of the year preceding the prior county fiscal year and the 12-month period ending June 30 of the prior county fiscal year.

(6) The Clerk of Court Operations Conference may submit proposed legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later



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than November 1 in any year for approval of clerk budget request amounts exceeding the restrictions in this section for the following October 1. If proposed legislation is recommended, the conference shall also submit supporting justification with sufficient detail to identify the specific proposed expenditures that would cause the limitations to be exceeded for each affected clerk and the estimated fiscal impact on state revenues.

Section 38. Section 28.37, Florida Statutes, is created to read:

28.37 Fines, fees, service charges, and costs remitted to the state.--

(1) Pursuant to s. 14(b), Art. V of the State Constitution, selected salaries, costs, and expenses of the state courts system and court-related functions shall be funded from a portion of the revenues derived from statutory fines, fees, service charges, and costs collected by the clerks of the court.

(2) Beginning August 1, 2004, except as otherwise provided in ss. 28.241 and 34.041, one-third of all fines, fees, service charges, and costs collected by the clerks of the court during the prior month for the performance of court-related functions shall be remitted to the Department of Revenue for deposit in the Department of Revenue Clerks of the Court Trust Fund. These collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the prior month due to the state on or before the 5th day of each month. The Department of Revenue shall make a monthly transfer of the funds in the Department of Revenue



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Clerks of the Court Trust Fund that are not needed to resolve clerk of the court budget deficits, as specified in s. 28.36, to the General Revenue Fund.

(3) Beginning January 1, 2005, for the period July 1, 2004, through September 30, 2004, and each January 1 thereafter for the preceding county fiscal year of October 1 through September 30, the clerk of the court must remit to the Department of Revenue for deposit in the General Revenue Fund the cumulative excess of all statutory fines, fees, service charges, and costs collected for the clerk's court-related functions over the amount needed to meet the approved budget amounts established under s. 28.36.

(4) The Department of Revenue shall adopt rules governing the remittance of the funds to be transferred to the General Revenue Fund under this section, the required forms and procedures, and penalties for failure to comply. The department shall collect any funds that the Clerk of Court Operations Conference determines upon investigation were due on January 1 but not remitted to the department.

Section 39. Effective July 1, 2004, section 29.001, Florida Statutes, is amended to read:

29.001 ~~Intent;~~ State courts system ~~essential~~ elements and definitions; ~~funding through filing fees, service charges, and costs;~~ ~~county responsibilities.~~--

~~(1) It is the intent of the Legislature that,~~ For the purpose of implementing s. 14, Art. V of the State Constitution, the state courts system ~~is~~ be defined to include the enumerated ~~essential~~ elements of the Supreme Court, district courts of appeal, circuit courts, county courts, and certain ~~essential~~ supports thereto. ~~Similarly,~~ The offices of public defenders



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and state attorneys ~~shall include those essential elements as determined by general law. Further, the state attorneys' offices~~ are defined to include the enumerated ~~essential~~ elements of the 20 state attorneys' offices and the enumerated ~~public defenders'~~ offices are defined to include the essential elements of the 20 public defenders' offices. Court-appointed counsel are defined to include the enumerated elements for ~~as~~ counsel appointed to ensure due process in criminal and civil proceedings in accordance with state and federal constitutional guarantees. Funding for the state courts system, the state attorneys' offices, the public defenders' offices, and court-appointed counsel shall be provided from state revenues appropriated by general law.

~~(2) All funding for the court-related functions of the offices of the clerks of the circuit and county courts shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions.~~

~~(3) Pursuant to general law, Counties shall be required to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit courts and county courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts, as defined by general law. In addition, the counties will continue to fund existing elements of the state courts system, state attorneys' offices, public defenders' offices, court-appointed counsel, and the offices of the clerks of the circuit and county courts performing court-related functions,~~



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~~consistent with current law and practice, until such time as the Legislature expressly assumes the responsibility for funding those elements. Counties will fund the cost of criminal cases filed by the Office of Statewide Prosecution. Additionally, the Legislature will define by general law those local requirements of the state courts system for which the counties must pay reasonable and necessary salaries, costs, and expenses.~~

~~(2)(4)~~ Although a program or function currently may be funded by the state or prescribed or established in general law, this does not designate the program or function as an essential element of the state courts system, state attorneys' offices, public defenders' offices, or the offices of the circuit and county court clerks performing court-related functions as described in s. 14, Art. V of the State Constitution.

Section 40. Effective July 1, 2004, section 29.004, Florida Statutes, is amended to read:

29.004 State courts system.--For purposes of implementing s. 14, Art. V of the State Constitution, the ~~essential~~ elements of the state courts system to be provided from state revenues appropriated by general law are as follows:

(1) Judges appointed or elected pursuant to chapters 25, 26, 34, and 35, ~~and essential staff, expenses, and costs as determined by general law.~~

(2) Juror compensation and expenses ~~and reasonable juror accommodations when necessary.~~

(3) Reasonable court reporting and transcription services necessary to meet constitutional requirements.

~~(4) Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Such auxiliary aids and services include, but are not~~



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~~limited to, sign-language interpreters, translators, real-time transcription services for individuals who are hearing impaired, and assistive listening devices. This section does not include physical modifications to court facilities; noncourtroom communication services; or other accommodations, auxiliary aids, or services for which the counties are responsible pursuant to s. 14, Art. V of the State Constitution.~~

(4)(5) Construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court.

(5)(6) Court foreign language and sign-language interpreters and translators essential to comply with constitutional requirements.

(6) Expert witnesses not requested by any party which are appointed by the court pursuant to an express grant of statutory authority.

(7) Judicial assistants, law clerks, and resource materials.

(8) Masters and hearing officers.

(9) Court administration.

(10) Case management. Case management includes:

(a) Initial review and evaluation of cases, including assignment of cases to court divisions or dockets.

(b) Case monitoring, tracking, and coordination.

(c) Scheduling of judicial events.

(d) Service referral, coordination, monitoring, and tracking for treatment-based drug court programs under s. 397.334.



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Case management may not include costs associated with the application of therapeutic jurisprudence principles by the courts. Case management also may not include case intake and records management conducted by the clerk of court.

(11) Mediation and arbitration, limited to trial court referral of a pending judicial case to a mediator or a court-related mediation program, or to an arbitrator or a court related arbitration program, for the limited purpose of encouraging and assisting the litigants in partially or completely settling the case prior to adjudication on the merits by the court. This does not include citizen dispute settlement centers under s. 44.201 and community arbitration programs under s. 985.304.

(12) Basic legal materials reasonably accessible to the public other than a public law library. These materials may be provided in a courthouse facility or any library facility.

~~(13)(7) Staff and expenses of~~ The Judicial Qualifications Commission.

(14) Offices of the appellate clerks and marshals and appellate law libraries.

Section 41. Effective July 1, 2004, section 29.005, Florida Statutes, is amended to read:

29.005 State attorneys' offices and prosecution expenses.-  
-For purposes of implementing s. 14, Art. V of the State Constitution, the ~~essential~~ elements of the state attorneys' offices to be provided from state revenues appropriated by general law are as follows:

(1) The state attorney of each judicial circuit and assistant state attorneys and other ~~essential~~ staff as determined by general law.



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(2) Reasonable court reporting and transcription services necessary to meet constitutional or statutory requirements, including the cost of transcribing and copying depositions of witnesses and the cost of foreign-language and sign-language interpreters and translators.

(3) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a criminal case when the witnesses are summoned by a state attorney, and any other expert witnesses the state attorney deems necessary for the performance of his or her duties.+

(4) Mental health professionals ~~who are~~ appointed pursuant to s. 394.473 and required in a court hearing involving an indigent, + and mental health professionals ~~expert witnesses who~~ are appointed pursuant to s. 916.115(2) and required in a court hearing involving an indigent.

(5) Reasonable transportation services in the performance of constitutional and statutory responsibilities.

(6) Travel expenses reimbursable under s. 112.061 reasonably necessary in the performance of constitutional and statutory responsibilities.

(7) Reasonable library and electronic legal research services, other than a public law library.

(8) Reasonable pretrial consultation fees and costs.

Section 42. Effective July 1, 2004, section 29.006, Florida Statutes, is amended to read:

29.006 Public defenders and indigent defense costs.--For purposes of implementing s. 14, Art. V of the State Constitution, the ~~essential~~ elements of the public defenders' offices to be provided from state revenues appropriated by general law are as follows:





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(1) The public defender of each judicial circuit and assistant public defenders and other essential staff as determined by general law.

(2) Reasonable court reporting and transcription services necessary to meet constitutional or statutory requirements, including the cost of transcribing and copying depositions of witnesses and the cost of foreign-language and sign-language interpreters and translators.

(3) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a criminal case when the witnesses are summoned on behalf of an indigent defendant, and any other expert witnesses approved by the court.+

(4) Mental health professionals ~~who are~~ appointed pursuant to s. 394.473 and required in a court hearing involving an indigent, + and mental health professionals ~~expert witnesses who~~ are appointed pursuant to s. 916.115(2) and required in a court hearing involving an indigent.

(5) Reasonable transportation services in the performance of constitutional and statutory responsibilities.

(6) Travel expenses reimbursable under s. 112.061 reasonably necessary in the performance of constitutional and statutory responsibilities.

(7) Reasonable library and electronic legal research services, other than a public law library.

(8) Reasonable pretrial consultation fees and costs.

Section 43. Effective July 1, 2004, section 29.007, Florida Statutes, is amended to read:

29.007 Court-appointed counsel.--For purposes of implementing s. 14, Art. V of the State Constitution, the



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~~essential~~ elements of court-appointed counsel to be provided from state revenues appropriated by general law are as follows:

(1) Private attorneys appointed ~~assigned~~ by the court to handle cases where the defendant is indigent and cannot be represented by the public defender under ss. 27.42 and 27.53.

(2) Private attorneys appointed by the court to represent indigents or other classes of litigants in civil proceedings requiring court-appointed counsel in accordance with state and federal constitutional guarantees and federal and state statutes.

(3) Reasonable court reporting and transcription services necessary to meet constitutional or statutory requirements, including the cost of transcribing and copying depositions of witnesses and the cost of foreign-language and sign-language interpreters and translators.

(4) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a ~~criminal~~ case when the witnesses are summoned on behalf of an indigent, and any other expert witnesses approved by the court. ~~defendant;~~

(5) Mental health professionals ~~who are~~ appointed pursuant to s. 394.473 and required in a court hearing involving an indigent, ~~;~~ and mental health professionals ~~expert witnesses who are~~ appointed pursuant to s. 916.115(2) and required in a court hearing involving an indigent.

(6) Reasonable pretrial consultation fees and costs.

(7) Travel expenses reimbursable under s. 112.061 reasonably necessary in the performance of constitutional and statutory responsibilities.



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~~(5) Investigating and assessing the indigency of any person who seeks a waiver of court costs and fees, or any portion thereof, or applies for representation by a public defender or private attorney.~~

Section 44. Effective upon this act becoming a law, section 24 of chapter 2000-237, Laws of Florida, as amended by section 1 of chapter 2001-265, Laws of Florida, is amended to read:

Section 24. This act shall take effect upon becoming a law, except for section 8 of this act, which shall take effect July 1, 2004 ~~2003~~.

Section 45. Effective July 1, 2004, section 29.008, Florida Statutes, is amended to read:

29.008 County funding of court-related functions.--

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of implementing these requirements, the term:

(a) "Facility" means reasonable and necessary buildings and space, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The



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term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services. This section applies only to facilities that are leased, or on which construction commences, after June 30, 2003.

(b)1. "Construction or lease" includes, but is not limited to, all reasonable and necessary costs of the acquisition or lease of facilities, equipment, and furnishings for all judicial officers, staff, jurors, volunteers of a tenant agency, and the public for the circuit and county courts, the public defenders' offices, state attorneys' offices, and for performing the court-related functions of the offices of the clerks of the circuit and county courts. This includes expenses related to financing such facilities and the existing and future cost and bonded indebtedness associated with placing the facilities in use.

2. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, jury facilities, and other public areas in courthouses.

3. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, for areas other



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than courtrooms, jury facilities, and other public areas in courthouses, shall be transferred to the state at no charge.

(c) "Maintenance" includes, but is not limited to, all reasonable and necessary costs of custodial and groundskeeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

(d) "Utilities" means all electricity services for light, heat, or power; natural or manufactured gas services for light, heat, or power; water and wastewater services and systems, stormwater or runoff services and systems, sewer services and systems, all costs or fees associated with these services and systems, and any costs or fees associated with the mitigation of environmental impacts directly related to the facility.

(e) "Security" includes but is not limited to, all reasonable and necessary costs of services of law enforcement officers or licensed security guards and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.

(f) "Communications ~~systems or communications~~ services" are defined as any reasonable and necessary transmission,



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emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, and all staff of the state courts system, state attorneys' offices, public defenders' offices, and clerks of the circuit and county courts performing court-related functions. Such system or services shall include, but not be limited to:

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay for the local service. Telephone equipment, including facsimile and video teleconferencing equipment, owned by the counties shall be transferred to the state at no charge, effective July 1, 2004  
~~Telephone services and equipment, including facsimile, wireless communications, video teleconferencing, pagers, computer lines, and telephone switching equipment and the maintenance, supplies, hardware, software, and line charges, including local and long-distance toll charges, and support staff or services necessary for operation.~~

2. All computer systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services, training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, and the offices of the clerks of the circuit and county courts and the capability to connect those



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entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by January 1, 2006, and, at a minimum, must be able to electronically exchange judicial case background, sentencing guidelines and scoresheets, and video evidence information stored in integrated case-management systems over secure networks.

3. ~~Postage, printed documents, radio, Courier messenger and subpoena services, support services, all maintenance, supplies, and line charges.~~

4. Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Such auxiliary aids and services include, but are not limited to, real-time transcription services for individuals who are hearing impaired, and assistive listening devices and the equipment necessary to implement such accommodations.

(g) "Existing radio systems" includes, but is not limited to, law enforcement radio systems that are used by the circuit and county courts, the offices of the public defenders, the offices of the state attorneys, and for court-related functions of the offices of the clerks of the circuit and county courts. This includes radio systems that were operational or under contract at the time Revision No. 7, 1998, to Art. V of the State Constitution was adopted and any enhancements made thereafter, the maintenance of those systems, and the personnel and supplies necessary for operation.

(h) "Existing multiagency criminal justice information systems" includes, but is not limited to, those components of the multiagency criminal justice information system as defined



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in s. 943.045, supporting the offices of the circuit or county courts, the public defenders' offices, the state attorneys' offices, or those portions of the offices of the clerks of the circuit and county courts performing court-related functions that are used to carry out the court-related activities of those entities. This includes upgrades and maintenance of the current equipment, maintenance and upgrades of supporting technology infrastructure and associated staff, and services and expenses to assure continued information sharing and reporting of information to the state. The counties shall also provide additional information technology services, hardware, and software as needed for new judges and staff of the state courts system, state attorneys' offices, public defenders' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

(2) Counties shall pay reasonable and necessary salaries, costs, and expenses of the state courts system, including associated staff and expenses, to meet local requirements ~~as determined by general law.~~

(a) Local requirements are those specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution needs, specialized defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances. Local requirements exist:

1. When imposed pursuant to an express statutory directive, based on such factors as provided in paragraph (b);  
or

2. When:





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a. The county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the circuit or a county within the circuit; or

b. Circumstances in a given circuit or county result in or necessitate implementation of specialized programs, the provision of nonjudicial staff and expenses to specialized court programs, special prosecution needs, specialized defense needs, or the commitment of resources to the court's jurisdiction.

(b) Factors and circumstances resulting in the establishment of a local requirement include, but are not limited to:

1. Geographic factors;
2. Demographic factors;
3. Labor market forces;
4. The number and location of court facilities; or
5. The volume, severity, complexity, or mix of court cases.

(c) Local requirements under subparagraph (a)2. must be determined by the following method:

1. The chief judge of the circuit, in conjunction with the state attorney and the public defender only on matters that impact their offices, shall identify all local requirements within the circuit or within each county in the circuit and shall identify the reasonable and necessary salaries, costs, and expenses to meet these local requirements.

2. On or before June 1 of each year, the chief judge shall submit to the board of county commissioners a tentative budget request for local requirements for the ensuing fiscal year. The tentative budget must certify a listing of all local requirements and the reasonable and necessary salaries, costs,



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and expenses for each local requirement. The board of county commissioners may, by resolution, require the certification to be submitted earlier.

3. The board of county commissioners shall thereafter treat the certification in accordance with the county's budgetary procedures. A board of county commissioners may:

a. Determine whether to provide funding, and to what extent it will provide funding, for salaries, costs, and expenses under this section;

b. Require a county finance officer to conduct a preaudit review of any county funds provided under this section prior to disbursement;

c. Require review or audit of funds expended under this section by the appropriate county office; and

d. Provide additional financial support for the courts system, state attorneys, or public defenders.

(d) Counties may satisfy these requirements by entering into interlocal agreements for the collective funding of these reasonable and necessary salaries, costs, and expenses.

(3) The following shall be considered a local requirement pursuant to subparagraph (2)(a)1.:

(a) Legal aid programs. Counties with a population of less than 75,000 are exempt from this requirement.

(b) Alternative sanctions coordinators pursuant to ss. 984.09 and 985.216.

Section 46. Effective July 1, 2004, section 29.0085, Florida Statutes, is created to read:

29.0085 Annual statement of certain revenues and expenditures.--

(1) Each county shall submit annually to the Chief



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Financial Officer a statement of revenues and expenditures as set forth in this section in the form and manner prescribed by the Chief Financial Officer in consultation with the Legislative Committee on Intergovernmental Relations, provided that such statement identify total county expenditures on each of the services outlined in s. 29.008.

(2)(a) Within 6 months of the close of the local government fiscal year, each county shall submit to the Chief Financial Officer a statement of compliance from its independent certified public accountant, engaged pursuant to s. 218.39, that the certified statement of expenditures was in accordance with s. 29.008 and this section. All discrepancies noted by the independent certified public accountant shall be included in the statement furnished by the county to the Chief Financial Officer.

(b) If the Chief Financial Officer determines that additional auditing procedures are appropriate because:

1. The county failed to submit timely its annual statement;
2. Discrepancies were noted by the independent certified public accountant; or
3. The county failed to file before March 31 of each year the certified public accountant statement of compliance, the Chief Financial Officer may send his or her personnel or contract for services to bring the county into compliance. The costs incurred by the Chief Financial Officer shall be paid promptly by the county upon certification by the Chief Financial Officer.

(c) Where the Chief Financial Officer elects to utilize the services of an independent contractor, such certification by



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the Chief Financial Officer may require the county to make direct payment to a contractor. Any funds owed by a county in such matters shall be recovered pursuant to s. 17.04 or s. 17.041.

(3) The Chief Financial Officer shall adopt any rules necessary to implement his or her responsibilities pursuant to this section.

Section 47. Effective July 1, 2004, section 29.0095, Florida Statutes, is created to read:

29.0095 Budget expenditure reports.--

(1) The chief judge of each circuit shall, by October 1 of each fiscal year, submit an itemized report to the Governor, the President of the Senate, and the Speaker of the House of Representatives showing the amount of state funds expended during the previous fiscal year ending in June for each of the items enumerated in s. 29.004 that pertain to circuit and county courts.

(2) Each state attorney shall, by October 1 of each fiscal year, submit an itemized report to the Governor, the President of the Senate, and the Speaker of the House of Representatives showing the amount of state funds expended during the previous fiscal year ending in June for each of the items enumerated in s. 29.005.

(3) Each public defender shall, by October 1 of each fiscal year, submit an itemized report to the Governor, the President of the Senate, and the Speaker of the House of Representatives showing the amount of state funds expended during the previous fiscal year ending in June for each of the items enumerated in s. 29.006.



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(4) The Legislative Budget Commission shall prescribe the format of the report required by this section in consultation with the Chief Justice and the Justice Administrative Commission.

Section 48. Section 29.014, Florida Statutes, is created to read:

29.014 Article V Indigent Services Advisory Board.--

(1) There is created the Article V Indigent Services Advisory Board. The board shall exist for the purpose of advising the Legislature in establishing qualifications and compensation standards governing the expenditure of state appropriated funds for those providing state-funded due process services for indigents provided through the courts, state attorneys, public defenders, and private court-appointed counsel. These services include, but are not limited to, court-appointed counsel, court reporting and transcription services, interpreter services, and expert witnesses. Standards recommended by the Board shall take into account local variations and market conditions and availability of attorneys and other service providers. The board shall also exist for the purpose of advising the Legislature on cost containment strategies and policies.

(2) The board shall be composed of twelve members, appointed as follows:

(a) The Governor shall appoint three members as follows: one state attorney, one public defender, and one clerk of court.

(b) The President of the Senate and the Speaker of the House of Representatives shall each appoint three members. Of the members appointed by the President of the Senate one shall be a county commissioner and one shall be an attorney in private



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practice with significant criminal trial experience. Of the members appointed by the Speaker of the House of Representatives one shall be a county commissioner and one shall be an attorney in private practice with significant civil trial experience. The President of the Senate and the Speaker of the House of Representatives may each appoint a member from their respective chambers.

(c) The Chief Justice of the Supreme Court shall appoint three members as follows: three trial court judges, representing a cross-section of small, medium, and large circuits, different regions of the state, and court divisions. Appointments shall be made effective July 1, 2003.

(3) Members shall be appointed for 4-year terms, except for an appointment to fill an unexpired term, in which event the appointment shall be for the remainder of the unexpired term only. In the case where a member must hold office to be qualified for board membership, the member's term shall also expire upon failure to maintain the office, whichever occurs first.

(4) The members shall elect a chairperson annually and shall meet at the call of the chairperson, at the request of a majority of the membership, or at the request of the President of the Senate or the Speaker of the House of Representatives. Members shall serve without pay but shall be entitled to reimbursement for their expenses in carrying out their duties as provided in s. 112.061. Public officer members shall be reimbursed through the budget entity through which they are compensated.

(5) The board shall:



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(a) Recommend qualifications for those providing authorized state-funded due process services, including qualifications for state-funded court reporters, interpreters, and private court-appointed counsel, in addition to those set forth in s. 27.40. At a minimum, the board shall incorporate into the eligibility and performance standards for court-appointed counsel requirements relating to length of membership in The Florida Bar, continuing legal education, and relevant trial experience. At a minimum, the experience standards for criminal cases must require participation in three criminal trials for an attorney to be eligible for a third-degree felony case and five criminal trials to be eligible for a case involving a felony of the second degree or a higher degree.

(b) Recommend any needed adjustments to existing compensation standards for private court-appointed counsel and other providers of due process services pursuant to s. 27.5304.

(c) Identify due process services for indigents that should be included on the state contract and bid competitively on a circuit, region, or statewide basis.

(d) Recommend statewide contracting standards for procurement of state-funded due process services and developing uniform contract forms for use in procuring services.

(e) Advise the Legislature on strategies and policies to contain costs.

(f) Recommend uniform standards to be applied by the public defender and the court in determining whether or not there is a conflict of interest pursuant to s. 27.5303.

(6) To aid in the transition to full implementation of Revision 7 to Article V, the board shall issue its initial recommendations by November 1, 2003. Thereafter, the board shall



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issue any additional recommendations or revisions thereto by September 1 of each year.

(7) In preparing budgets and entering into contractual arrangements for the procurement of state-funded due process services for fiscal year 2004-2005, the Chief Justice and the circuit Article V indigent services committees are authorized and encouraged to consider the advice and recommendations of the board.

(8) The Justice Administrative Commission shall provide staff support to the board.

Section 49. Effective July 1, 2004, section 29.015, Florida Statutes, is created to read:

29.015 Contingency fund; limitation of authority to transfer funds in contracted due process services appropriation categories.--

(1) An appropriation may be provided in the General Appropriations Act in the Justice Administrative Commission to serve as a contingency fund for the purpose of alleviating deficits in contracted due process services appropriation categories, including private court-appointed counsel appropriation categories, that may occur from time to time due to extraordinary events that lead to unexpected expenditures.

(2) In the event that a state attorney or public defender incurs a deficit in a contracted due process services appropriation category, the following steps shall be taken in order:

(a) The state attorney or public defender shall first attempt to identify surplus funds from other appropriation categories within his or her office and submit a budget amendment pursuant to chapter 216 to transfer funds from within





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(b) In the event that the state attorney or public defender is unable to identify surplus funds from within his or her office, he or she shall certify this to the Justice Administrative Commission along with a complete explanation of the circumstances which led to the deficit and steps the office has taken to reduce or alleviate the deficit. The Justice Administrative Commission shall inquire as to whether any other office has surplus funds in its contracted due process services appropriation categories which can be transferred to the office that is experiencing the deficit. If other offices indicate that surplus funds are available, the Justice Administrative Commission shall request a budget amendment to transfer funds from the office or offices to alleviate the deficit upon agreement of the contributing office or offices.

(c) If no office indicates that surplus funds are available to alleviate the deficit, the Justice Administrative Commission may request a budget amendment to transfer funds from the contingency fund. Such transfers shall be in accordance with all applicable provisions of chapter 216 and shall be subject to review and approval by the Legislative Budget Commission. The Justice Administrative Commission shall submit the documentation provided by the office explaining the circumstances that led to the deficit and the steps taken by the office and the Justice Administrative Commission to identify surplus funds to the Legislative Budget Commission.

(3) In the event that there is a deficit in a statewide contracted due process services appropriation category provided for private court-appointed counsel necessary due to withdrawal of the public defender due to an ethical conflict, the following



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steps shall be taken in order:

(a) The Justice Administrative Commission shall first attempt to identify surplus funds from other contracted due process services appropriation categories within the Justice Administrative Commission and submit a budget amendment pursuant to chapter 216 to transfer funds from within the commission.

(b) In the event that the Justice Administrative Commission is unable to identify surplus funds from within the commission, the commission shall inquire of each of the public defenders as to whether any office has surplus funds in its contracted due process services appropriations categories which can be transferred. If any public defender office or offices indicate that surplus funds are available, the Justice Administrative Commission shall request a budget amendment to transfer funds from the office or offices to alleviate the deficit upon agreement of the contributing office or offices.

(c) If no public defender office has surplus funds available to alleviate the deficit, the Justice Administrative commission may request a budget amendment to transfer funds from the contingency fund. Such transfers shall be in accordance with all applicable provisions of chapter 216 and shall be subject to review and approval by the Legislative Budget Commission. The Justice Administrative Commission shall submit the documentation provided by the office explaining the circumstances that led to the deficit and the steps taken by the Justice Administrative Commission to identify surplus funds to the Legislative Budget Commission.

(4) In the event that there is a deficit in a statewide appropriation category provided for private court-appointed counsel other than for conflict counsel as described in



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subsection (3), the following steps shall be taken in order:

(a) The Justice Administrative Commission shall first attempt to identify surplus funds from other contracted due process services appropriation categories within the Justice Administrative Commission and submit a budget amendment pursuant to chapter 216 to transfer funds from within the commission.

(b) In the event that the Justice Administrative Commission is unable to identify surplus funds from within the commission, the commission may submit a budget amendment to transfer funds from the contingency fund. Such transfers shall be in accordance with all applicable provisions of chapter 216 and shall be subject to review and approval by the Legislative Budget Commission. The Justice Administrative Commission shall submit documentation explaining the circumstances that led to the deficit and the steps taken to identify surplus funds to the Legislative Budget Commission.

(5) Notwithstanding any provisions in chapter 216 to the contrary, no office shall transfer funds from a contracted due process services appropriation category or from a contingency fund category authorized in this section except as specifically authorized in this section. In addition, funds shall not be transferred from a state attorney office to alleviate a deficit in a public defender office and funds shall not be transferred from a public defender office to alleviate a deficit in a state attorney office.

Section 50. Effective July 1, 2004, section 29.016, Florida Statutes, is created to read:

29.016 Contingency fund; judicial branch.--

(1) An appropriation may be provided in the General Appropriations Act for the judicial branch to serve as a



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contingency fund to alleviate deficits in contracted due process services appropriation categories, including private court-appointed counsel categories, that may occur from time to time due to extraordinary events that lead to unexpected expenditures.

(2) In the event that a chief judge incurs such a deficit, the following steps shall be taken in order:

(a) The chief judge shall attempt to identify surplus funds from other appropriation categories within his or her circuit and submit a request to the Chief Justice for a budget amendment pursuant to chapter 216 to transfer funds from within the circuit budget.

(b) In the event that the chief judge is unable to identify surplus funds from within his or her circuit, he or she shall certify this to the Office of the State Courts Administrator along with a complete explanation of the circumstances which led to the deficit and steps taken to reduce or alleviate the deficit. The Office of the State Courts Administrator shall inquire as to whether any other circuit has surplus funds in its contracted due process service appropriation categories which can be transferred to the circuit that is experiencing the deficit. If other circuits indicate that surplus funds are available, the Office of the State Courts Administrator shall notify the Trial Court Budget Commission established within the judicial branch by Rule of Judicial Administration. The Trial Court Budget Commission shall make recommendations to the Chief Justice to alleviate the deficit. The Chief Justice may authorize a transfer of funds among circuits to alleviate the deficit.

(3) If no other circuits indicate that surplus funds are



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available to alleviate the deficit, the Trial Court Budget Commission may request the Chief Justice to request a budget amendment to transfer funds from the contingency fund. Such transfers shall be requested subject to the notice and review requirements set forth in s. 216.177. The Office of the State Courts Administrator shall include in the budget amendment documentation provided by the chief judge explaining the circumstances that led to the deficit and the steps taken to identify surplus funds to alleviate the deficit.

(4) Notwithstanding any provisions in chapter 216 to the contrary, no circuit shall transfer funds from a contracted due process services appropriation category or from a contingency fund category authorized in this section except as specifically authorized in this section.

Section 51. Effective July 1, 2004, subsection (2) of section 34.032, Florida Statutes, is amended to read:

34.032 Power of clerk to appoint deputies.--

(2) Any deputy county court clerk appointed for the sole purpose of issuing arrest warrants for violation of chapter 316 or county or municipal ordinances triable in the county courts shall have and exercise only those powers of the clerk which are required to achieve such limited purpose, and those arrest warrants issued for violation of county or municipal ordinances shall be funded by the county or municipality which approved the ordinance.

Section 52. Effective July 1, 2004, section 34.041, Florida Statutes, is amended to read:

34.041 Filing fees ~~Service charges and costs.~~--

(1) Upon the institution of any civil action or proceeding in county court, the clerk of court may require the plaintiff,



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when filing an action or proceeding, to shall pay the following filing fee, not to exceed ~~service charges~~:

- (a) For all claims less than \$100.....\$50.~~\$10.00~~.
- (b) For all claims of \$100 or more but not more than \$500  
\$2,500.....\$75.~~25.00~~.
- (c) For all claims of more than \$500 but not more than  
\$2,500.....\$150.
- ~~(d)~~(e) For all claims of more than \$2,500.....\$250.~~40.00~~.
- (e)~~(d)~~ In addition, for all proceedings of garnishment,  
attachment, replevin, and distress.....\$75.~~35.00~~.
- ~~(f)~~(e) For removal of tenant action.....\$75.~~35.00~~.

The first \$50 of the filing fee collected under paragraph (d) shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. One-third of any filing fees collected by the clerk under paragraph (d) in excess of the first \$50 shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. ~~Service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or by special or local law, and such excess shall be expended as provided by such ordinance or any special or local law now or hereafter in force to provide and maintain facilities, including a law library, for the use of the county court in the county in which the charge is collected; to provide~~



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~~and maintain equipment; or for a legal aid program.~~ Except as otherwise provided herein, all filing fees shall be retained as fee income of the office of the clerk of circuit court. Filing fees ~~Service charges~~ imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318. ~~The sum of all service charges and fees permitted under this subsection may not exceed \$200.~~

(2) ~~The judge shall have full discretionary power to waive the prepayment of costs or the payment of costs accruing during the action upon the sworn written statement of the plaintiff and upon other satisfactory evidence of the plaintiff's inability to pay such costs. When costs are so waived, the notation to be made on the records shall be "Prepayment of costs waived," or "Costs waived." The term "pauper" or "in forma pauperis" shall not be employed. If a party shall fail to pay accrued costs, though able to do so, the judge shall have power to deny that party the right to file any new case while such costs remain unpaid and, likewise, to deny such litigant the right to proceed further in any case pending. The award of other court costs shall be according to the discretion of the judge who may include therein the reasonable costs of bonds and undertakings and other reasonable court costs incident to the suit incurred by either party.~~

(3) In criminal proceedings in county courts, costs shall be taxed against a person in county court upon conviction or estreatment pursuant to chapter 939. ~~The provisions of s. 28.241(2) shall not apply to criminal proceedings in county court.~~

(4) Upon the institution of any appellate proceeding from the county court to the circuit court, there shall be charged



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and collected from the party or parties instituting such appellate proceedings, including appeals filed by a county or municipality, filing fees ~~a service charge~~ as provided in chapter 28.

(5) A charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, or proceeding in a county court or to an appeal to the circuit court.

(6) For purposes of this section, "plaintiff" includes a county or municipality filing any civil action.

~~(6) In addition to the filing fees provided in subsection (1), in all civil cases, the sum of \$7.00 per case shall be paid by the plaintiff when filing an action for the purpose of funding the court costs. Such funds shall be remitted by the clerk to the Department of Revenue for deposit to the General Revenue Fund.~~

Section 53. Subsection (6) of section 34.13, Florida Statutes, is amended to read:

34.13 Method of prosecution.--

(6) Any circuit court clerk acting as clerk of the county court, or any deputy county court clerk appointed for the sole purpose of issuing arrest warrants, or any county court clerk, may, at municipal expense, administer an oath to and take affidavit of any person charging another person with a violation of a municipal ordinance and may issue a warrant on the usual form, making it returnable to the appropriate county court judge. The authority granted to a clerk or deputy clerk under this section shall be subordinate to that of any state judge.

Section 54. Effective July 1, 2004, section 34.171, Florida Statutes, is amended to read:





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34.171 Salaries and expenses.--~~Unless the state shall pay such expenses,~~ The county shall pay all reasonable salaries of bailiffs, ~~secretaries,~~ and assistants of the circuit and county courts and all reasonable expenses of the offices of circuit and county court judges.

Section 55. Effective July 1, 2004, subsection (2) of section 34.181, Florida Statutes, is amended to read:

34.181 Branch courts.--

(2) Any municipality or county which so applies shall be required to provide the appropriate physical facilities as defined in s. 29.008 in which the county court may hold court.

Section 56. Effective July 1, 2004, section 34.191, Florida Statutes, is amended to read:

34.191 Fines and, forfeitures, ~~and costs.~~--

~~(1)~~ All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court ~~and deposited in a special trust account.~~ All fines and forfeitures received from violations of ~~ordinances or misdemeanors committed within a county, or of municipal ordinances committed within a municipality within the territorial jurisdiction of the county court,~~ shall be paid monthly to the ~~county or municipality respectively~~ except as provided in s. 318.21 or s. 943.25. All other fines and forfeitures collected by the clerk shall be considered income of the office of the clerk for use in performing court-related duties of the office.

~~(2) All court costs assessed in county court must be paid to and retained by the county, except as provided in s. 943.25 and subsection (3) of this section.~~



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~~(3) If a municipality incurs any cost of operation of the county court, including any cost of prosecution, it may apply to the chief judge of the circuit for an order directing the county to distribute reasonable court costs to the municipality. If not satisfied with the order of the chief judge, the municipality may apply to the Supreme Court for an order apportioning the costs.~~

~~(4) The board of county commissioners may assign the collection of fines, court costs, and other costs imposed by the court that are past due for 90 days or more to a private attorney or collection agency that is licensed or registered in this state, if the board of county commissioners determines that the assignment is cost-effective and follows established bid practices. The board of county commissioners may authorize a fee to be added to the outstanding balance to offset any collection costs that will be incurred.~~

Section 57. Effective July 1, 2004, section 39.0134, Florida Statutes, is amended to read:

39.0134 Appointed counsel; compensation.--

(1) If counsel is entitled to receive compensation for representation pursuant to a court appointment in a dependency proceeding pursuant to this chapter, ~~such~~ compensation shall be paid in accordance with s. 27.5304 established by each county. The state ~~county~~ may acquire and enforce a lien upon court-ordered payment of attorney's fees and costs in accordance with s. 984.08.

~~(2) If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding, such compensation shall not exceed \$1,000 at the trial level and \$2,500 at the appellate level.~~



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Section 58. Subsection (3) of section 39.4075, Florida Statutes, is amended to read:

39.4075 Referral of a dependency case to mediation.--

(3) The department shall advise the parties that they are responsible for contributing to the cost of the dependency mediation ~~to the extent of their ability to pay.~~

Section 59. Effective July 1, 2004, subsection (1) of section 39.815, Florida Statutes, is amended to read:

39.815 Appeal.--

(1) Any child, any parent or guardian ad litem of any child, any other party to the proceeding who is affected by an order of the court, or the department may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure. The district court of appeal shall give an appeal from an order terminating parental rights priority in docketing and shall render a decision on the appeal as expeditiously as possible. Appointed counsel shall be compensated as provided in s. 27.5304(5) ~~39.0134~~.

Section 60. Effective July 1, 2004, section 40.001, Florida Statutes, is created to read:

40.001 Chief judge; authority; duties.--The chief judge of each judicial circuit is vested with overall authority and responsibility for the management, operation, and oversight of the jury system within his or her circuit. However, in accordance with this chapter and chapter 905, the clerk of the circuit court has specific responsibilities regarding the processing of jurors, including, but not limited to, qualifications, summons, selection lists, reporting, and compensation of jurors. The clerk of the circuit court may



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contract with the chief judge for the court's assistance in the provision of services to process jurors. The chief judge may also designate to the clerk of the circuit court additional duties consistent with established uniform standards of jury management practices that the Supreme Court may adopt by rule or issue through administrative order.

Section 61. Effective July 1, 2004, subsection (3) of section 40.02, Florida Statutes, is amended to read:

40.02 Selection of jury lists.--

(3) The clerk of the court shall ~~chief judge may designate the court administrator to perform the duties set forth in this section and in ss. 40.221, 40.23, and 40.231 in counties having an approved, computerized jury selection system, the provisions of any special law or general law of local application to the contrary notwithstanding. However, the chief judge may designate the court administrator to perform these duties if the county provides funding to the court administrator to provide the personnel and other costs associated with jury services.~~

Section 62. Effective July 1, 2004, subsection (1) of section 40.29, Florida Statutes, is amended to read:

40.29 Clerks to make estimates and requisitions for certain due process costs ~~estimate amount for pay of jurors and witnesses and make requisition.--~~

(1) The clerk of the court in and for any county shall make an estimate of the amount necessary during any quarterly fiscal period beginning July 1 and during each succeeding quarterly fiscal period for the payment by the state of juror compensation and expenses; court reporter, interpreter, and translator services; witnesses, including expert witnesses; mental health professionals; and private court-appointed



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counsel, each in accordance with the applicable requirements of

ss. 29.005, 29.006, and 29.007. The clerk of such court:

~~(a) Jurors in the circuit court and the county court;~~

~~(b) Witnesses before the grand jury;~~

~~(c) Witnesses summoned to appear for an investigation, preliminary hearing, or trial in a criminal case when the witnesses are summoned by a state attorney or on behalf of an indigent defendant;~~

~~(d) Mental health professionals who are appointed pursuant to s. 394.473 and required in a court hearing involving an indigent; and~~

~~(e) Expert witnesses who are appointed pursuant to s. 916.115(2) and required in a court hearing involving an indigent;~~

~~and shall forward each such estimate to the Justice Administrative Commission State Courts Administrator no later than the date scheduled by the Justice Administrative Commission State Courts Administrator. At the time of any forwarding of such estimate, the clerk of such court shall make a requisition upon the Justice Administrative Commission State Courts Administrator for the amount of such estimate; and the Justice Administrative Commission State Courts Administrator may reduce the amount upon finding that the costs are unreasonable, inconsistent with applicable contractual terms, or inconsistent with compensation standards established by general law ~~if in his or her judgment the requisition is excessive.~~~~

Section 63. Effective July 1, 2004, section 40.30, Florida Statutes, is amended to read:



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40.30 Requisition endorsed by Justice Administrative Commission ~~State Courts Administrator~~ or designee.--Upon receipt of such estimate and the requisition from the clerk of the court pursuant to s. 40.29, the Justice Administrative Commission ~~State Courts Administrator~~ or designee shall endorse the amount deemed that he or she may deem necessary for payment to the state ~~the pay of jurors and witnesses~~ during the quarterly fiscal period and shall submit a request for payment to the Chief Financial Officer ~~Comptroller~~.

Section 64. Subsections (1) and (5) of section 43.16, Florida Statutes, are amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.--

(1) There is hereby created a Justice Administrative Commission ~~of the Judicial Branch of Florida~~, with headquarters located in the state capital. The necessary office space for use of the commission shall be furnished by the proper state agency in charge of state buildings.

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the office of capital collateral representative of Florida, and the Judicial Qualifications Commission.

(b) Each state attorney and public defender and the Judicial Qualifications Commission shall continue to prepare necessary budgets, vouchers which represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the



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office, such as revenue transmittals to the Chief Financial Officer and treasurer, automated systems plans, ~~etc.~~, but will forward same to the commission for recording and submission to the proper state officer. However, when requested by a state attorney or a public defender or the Judicial Qualifications Commission, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

Section 65. Section 43.26, Florida Statutes, is amended to read:

43.26 Chief Presiding judge of circuit; selection; powers.--

(1) The chief ~~presiding~~ judge of each judicial circuit, who shall be a circuit judge, shall exercise administrative supervision over all the trial courts within the judicial circuit and over the judges and other officers of such courts.

(2) The chief ~~presiding~~ judge of the circuit shall have the power:

(a) To assign judges to any division of the court ~~the trial of civil or criminal cases, to preliminary hearings, or to divisions~~ and to determine the length of the assignment;

~~(b) To assign clerks and bailiffs;~~

(b)(e) To regulate use of courtrooms;

(c)(d) To supervise dockets and calendars;

(d)(e) To require attendance of state attorneys, prosecutors and public defenders, clerks, bailiffs, and all other officers of the court; and

(e)(f) To do everything necessary to promote the prompt and efficient administration of justice in the courts over which he or she is chief judge ~~presides~~.



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(f) To delegate to the trial court administrator, by administrative order, the authority to bind the circuit in contract.

(g) To manage, operate, and oversee the jury system as provided in s. 40.001.

(3) The chief ~~presiding~~ judge shall be responsible to the Chief Justice of the Supreme Court for such information as may be required by the Chief Justice, including, but not limited to, caseload, status of dockets, and disposition of cases in the courts over which he or she presides.

~~(4) The presiding judge of the circuit shall be selected by a majority of the judges subject to this section in that circuit for a term of 2 years. The presiding judge may succeed himself or herself for successive terms.~~

~~(4)(5)~~ Failure of any judge, clerk, prosecutor, public defender, or other officer of the court to comply with an order or directive of the chief ~~presiding~~ judge under this section shall constitute neglect of duty for which such officer may be suspended from office as provided by law.

~~(5)(6)~~ There may be a trial court administrator ~~an executive assistant to the presiding judge~~ who shall perform such duties as the chief ~~presiding~~ judge may direct.

Section 66. Effective July 1, 2004, section 44.108, Florida Statutes, is amended to read:

44.108 Funding of mediation and arbitration.--Mediation should be accessible to all parties regardless of financial status. A filing fee of \$1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court





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shall forward the monies collected to the Department of Revenue for deposit in the state courts' Mediation and Arbitration Trust Fund. ~~Each board of county commissioners may support mediation and arbitration services by appropriating moneys from county revenues and by:~~

~~(1) Levying, in addition to other service charges levied by law, a service charge of no more than \$5 on any circuit court proceeding, which shall be deposited in the court's mediation-arbitration account fund under the supervision of the chief judge of the circuit in which the county is located; and~~

~~(2) Levying, in addition to other service charges levied by law, a service charge of no more than \$5 on any county court proceeding, which shall be deposited in the county's mediation-arbitration account fund to be used to fund county civil mediation services under the supervision of the chief judge of the circuit in which the county is located.~~

~~(3) Levying, in addition to other service charges levied by law, a service charge of no more than \$45 on any petition for a modification of a final judgment of dissolution, which shall be deposited in the court's family mediation account fund to be used to fund family mediation services under the supervision of the chief judge of the circuit in which the county is located.~~

~~(4) If a board of county commissioners levies the service charge authorized in subsection (1), subsection (2), or subsection (3), the clerk of the court shall forward \$1 of each charge to the Department of Revenue for deposit in the state mediation and arbitration trust fund which is hereby established. Such fund shall be used by the Supreme Court to carry out its responsibilities set forth in s. 44.106.~~



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Section 67. Paragraph (b) of subsection (1) of section 49.10, Florida Statutes, is amended to read:

49.10 Notice of action, publication, proof.--

(1)

(b) In proceedings described in s. 49.011(4), (10), and (11), ~~except in those counties where, pursuant to s. 50.071(3), notices are by law required to be published by designated record newspaper,~~ the clerk of the court shall post notices of action in the manner prescribed by s. 49.11 when such notices are required of persons authorized to proceed as indigent insolvent ~~and poverty-stricken persons~~ under s. 57.081.

Section 68. Effective July 1, 2004, subsection (5) of section 55.10, Florida Statutes, is amended to read:

55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.--

(5) Any lien claimed under this section may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either depositing in the clerk's office a sum of money or filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. Such deposit or bond shall be in an amount equal to the amount demanded in such claim of lien plus interest thereon at the legal rate for 3 years plus \$500 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment, order, or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs plus \$500



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for court costs. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. The clerk shall be entitled to a fee of up to \$15 ~~\$10~~ for making and serving the certificate. If the transaction involves the transfer of multiple liens, an additional charge of up to \$7.50 ~~\$5~~ for each additional lien shall be charged. Any number of liens may be transferred to one such security.

Section 69. Effective July 1, 2004, subsection (2) of section 55.141, Florida Statutes, is amended to read:

55.141 Satisfaction of judgments and decrees; duties of clerk and judge.--

(2) Upon such payment, the clerk, or the judge if there is no clerk, shall issue his or her receipt therefor and shall record a satisfaction of judgment, provided by the judgment holder, upon payment of the recording charge prescribed in s. 28.24(12)~~(15)~~ plus the necessary costs of mailing to the clerk or judge. The clerk or judge shall formally notify the owner of record of such judgment or decree, if such person and his or her address are known to the clerk or judge receiving such payment, and, upon request therefor, shall pay over to the person entitled, or to his or her order, the full amount of the payment so received, less his or her fees for issuing execution on such judgment or decree, if any has been issued, and less his or her fees for receiving into and paying out of the registry of the



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court such payment, together with the fees of the clerk for receiving into and paying such money out of the registry of the court.

Section 70. Effective July 1, 2004, subsection (3) of section 55.505, Florida Statutes, is amended to read:

55.505 Notice of recording; prerequisite to enforcement.--

(3) No execution or other process for enforcement of a foreign judgment recorded hereunder shall issue until 30 days after the mailing of notice by the clerk and payment of a service charge of up to \$37.50 ~~\$25~~ to the clerk. When an action authorized in s. 55.509(1) is filed, it acts as an automatic stay of the effect of this section.

Section 71. Effective July 1, 2004, subsection (1) of section 57.081, Florida Statutes, is amended to read:

57.081 Costs; right to proceed where prepayment of costs waived.--

(1) Any indigent person, except a prisoner as defined in s. 57.085, who is a party or intervenor in any judicial or administrative agency proceeding or who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks, with respect to such proceedings, despite his or her present inability to pay for these services ~~without charge~~. Such services are limited to filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; private court-appointed counsel fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. In any appeal from an administrative agency decision, for which



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the clerk is responsible for preparing the transcript, the clerk shall record ~~waive~~ the cost of preparing the transcripts and the cost for copies of any exhibits in the record. Prepayment of costs to any court, clerk, or sheriff is not required in any action if the party has obtained ~~from the clerk~~ in each proceeding a certification of indigence in accordance with s. 27.52 ~~indigency, based on an affidavit of the applicant claiming that the applicant is indigent and unable to pay the charges otherwise payable by law to any of such officers, providing the details of the applicant's financial condition, and containing a statement that certifies that no person has been paid or promised any payment of any remuneration by the applicant for services performed on behalf of the applicant in connection with the action or proceeding. However, when the person is represented by an attorney, the person need not file an affidavit in order to be exempt from payment of charges under this subsection. A represented person is exempt from charges under this subsection if the attorney of such person files a written certificate, signed by the attorney, certifying that the attorney has made an investigation to ascertain the financial condition of the client and has found the client to be indigent; that the attorney has investigated the nature of the applicant's position and in the attorney's opinion it is meritorious as a matter of law; and that the attorney has not been paid or promised payment of any remuneration for services and intends to act as attorney for the applicant without compensation. On the failure or refusal of the clerk to issue a certificate of indigency, the applicant is entitled to a review of the application for the certificate by the court having jurisdiction of the cause of action.~~



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Section 72. Effective July 1, 2004, subsections (2), (3), (4), (5), and (8) of section 57.085, Florida Statutes, are amended to read:

57.085 Waiver of prepayment of court costs and fees for indigent prisoners.--

(2) When a prisoner who is intervening in or initiating a judicial proceeding seeks to defer the ~~waiver of~~ prepayment of court costs and fees because of indigence ~~indigency~~, the prisoner must file an affidavit of indigence ~~indigency~~ with the appropriate clerk of the court. The affidavit must contain complete information about the prisoner's identity; the nature and amount of the prisoner's income; all real property owned by the prisoner; all tangible and intangible property worth more than \$100 which is owned by the prisoner; the amount of cash held by the prisoner; the balance of any checking, savings, or money market account held by the prisoner; the prisoner's dependents, including their names and ages; the prisoner's debts, including the name of each debtor and the amount owed to each debtor; and the prisoner's monthly expenses. The prisoner must certify in the affidavit whether the prisoner has been adjudicated indigent under this section, certified indigent under s. 57.081, or authorized to proceed as an indigent under 28 U.S.C. s. 1915 by a federal court. The prisoner must attach to the affidavit a photocopy of the prisoner's trust account records for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter. The affidavit must contain the following statements: "I am unable to pay court costs and fees. Under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete."



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(3) Before a prisoner may receive a deferral ~~waiver~~ of prepayment of any court costs and fees for an action brought under this section, the clerk of court must review the affidavit ~~of indigency~~ and certify ~~adjudicate~~ the prisoner is indigent.

(4) When the clerk has issued a certificate of indigence under this section ~~a court adjudicates a prisoner indigent~~ but concludes, ~~from the affidavit of indigency or other information,~~ ~~that~~ the prisoner is able to pay part of the court costs and fees required by law, the court shall order the prisoner to make, prior to service of process, an initial partial payment of those court costs and fees. The initial partial payment must total at least 20 percent of the average monthly balance of the prisoner's trust account for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter.

(5) When the clerk has issued a certificate of indigence ~~a court adjudicates a prisoner indigent~~ under this section, the court shall order the prisoner to make monthly payments of no less than 20 percent of the balance of the prisoner's trust account as payment of court costs and fees. When a court orders such payment, the Department of Corrections or the local detention facility shall place a lien on the inmate's trust account for the full amount of the court costs and fees, and shall withdraw money maintained in that trust account and forward the money, when the balance exceeds \$10, to the appropriate clerk of the court until the prisoner's court costs and fees are paid in full.

(8) In any judicial proceeding in which a certificate of indigence has been issued to a prisoner ~~has been adjudicated indigent and has been granted a full or partial waiver of court~~



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~~costs and fees~~, the court may at any time dismiss the prisoner's action, in whole or in part, upon a finding that:

(a) The prisoner's claim of indigence ~~indigency~~ is false or misleading;

(b) The prisoner provided false or misleading information regarding another judicial or administrative proceeding in which the prisoner was a party;

(c) The prisoner failed to pay court costs and fees ~~assessed~~ under this section despite having the ability to pay; or

(d) The prisoner's action or a portion of the action is frivolous or malicious.

Section 73. Effective July 1, 2004, paragraphs (d), (e), and (f) of subsection (6) of section 61.14, Florida Statutes, are amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.--

(6)

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs and a fee of up to \$7.50 ~~\$5~~, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a





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fee of up to \$7.50 ~~\$5~~, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a fee of up to \$7.50 ~~\$5~~, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

Section 74. Paragraph (b) of subsection (2) of section 61.181, Florida Statutes, is amended to read:

61.181 Depository for alimony transactions, support, maintenance, and support payments; fees.--

(2)

(b)1. For the period of July 1, 1992, through June 30, 2004 ~~2003~~, The fee imposed in paragraph (a) shall be increased



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to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than \$5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of the Clerk of the Court Child Support Enforcement Collection System to be operated by the depositories, including the automation of civil case information necessary for the State Case Registry. The department shall contract with the Florida Association of Court Clerks and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund. Each depository created under this section shall fully participate in the Clerk of the Court Child Support Enforcement Collection System and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the department.

2. Moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:



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- a. For each support payment of less than \$33, 18.75 cents.
  - b. For each support payment between \$33 and \$140, an amount equal to 18.75 percent of the fee charged.
  - c. For each support payment in excess of \$140, 18.75 cents.
3. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

Section 75. Subsections (2) and (6) of section 61.21, Florida Statutes, are amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.--

(2) The Department of Children and Family Services ~~All judicial circuits in the state~~ shall approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named the Parent Education and Family Stabilization Course and may include, but need not be limited to, the following topics as they relate to court actions between parents involving custody, care, visitation, and support of a child or children:

- 1. Legal aspects of deciding child-related issues between parents.
- 2. Emotional aspects of separation and divorce on adults.
- 3. Emotional aspects of separation and divorce on children.
- 4. Family relationships and family dynamics.
- 5. Financial responsibilities to a child or children.



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6. Issues regarding spousal or child abuse and neglect.

7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(b) Information regarding spousal and child abuse and neglect shall be included in every parent education and family stabilization course. A list of local agencies that provide assistance with such issues shall also be provided.

(c) The parent education and family stabilization course shall be educational in nature and shall not be designed to provide individual mental health therapy for parents or children, or individual legal advice to parents or children.

(d) Course providers shall not solicit participants from the sessions they conduct to become private clients or patients.

(e) Course providers shall not give individual legal advice or mental health therapy.

(6) The department shall provide each judicial circuit with ~~may establish~~ a list of approved ~~registry of~~ course providers and sites at which the parent education and family stabilization course required by this section may be completed. The department ~~court~~ shall also include on ~~within~~ the list ~~registry~~ of course providers and sites at least one site in each circuit at which the parent education and family stabilization course may be completed on a sliding fee scale, if available.

Section 76. Effective July 1, 2004, section 77.28, Florida Statutes, is amended to read:

77.28 Garnishment; attorney's fees, costs, expenses; deposit required.--Before issuance of any writ of garnishment, the party applying for it shall deposit \$100 in the registry of the court which shall be paid to the garnishee on the



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garnishee's demand at any time after the service of the writ for the payment or part payment of his or her attorney's fee which the garnishee expends or agrees to expend in obtaining representation in response to the writ. At the time of deposit, the clerk shall collect the statutory fee provided by s. 28.24(10)(13) in addition to the \$100 deposited into the registry of the court. On rendering final judgment, the court shall determine the garnishee's costs and expenses, including a reasonable attorney's fee, and in the event of a judgment in favor of the plaintiff, the amount shall be subject to offset by the garnishee against the defendant whose property or debt owing is being garnished. In addition, the court shall tax the garnishee's costs and expenses as costs. Plaintiff may recover in this manner the sum advanced by plaintiff and paid into registry of court, and if the amount allowed by the court is greater than the amount of the deposit, together with any offset, judgment for the garnishee shall be entered against the party against whom the costs are taxed for the deficiency.

Section 77. Paragraph (a) of subsection (2) of section 92.153, Florida Statutes, is amended to read:

92.153 Production of documents by witnesses; reimbursement of costs.--

(2) REIMBURSEMENT OF A DISINTERESTED WITNESS.--

(a) In any proceeding, a disinterested witness shall be paid for any costs the witness reasonably incurs either directly or indirectly in producing, searching for, reproducing, or transporting documents pursuant to a summons; however, the cost of documents produced pursuant to a subpoena or records request by a state attorney or public defender may not exceed 15 cents per page and \$10 per hour for research or retrieval.



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Section 78. Effective July 1, 2004, section 92.231, Florida Statutes, is amended to read:

92.231 Expert witnesses; fee.--

(1) The term "expert witness" as used herein shall apply to any witness who offers himself or herself in the trial of any ~~civil~~ action as an expert witness or who is subpoenaed to testify in such capacity before a state attorney in the investigation of a criminal matter, or before a grand jury, and who is permitted by the court to qualify and testify as such, upon any matter pending before any court.

(2) Any expert or skilled witness who shall have testified in any cause shall be allowed a witness fee including the cost of any exhibits used by such witness in an the amount agreed to by the parties ~~of \$10 per hour or such amount as the trial judge may deem reasonable~~, and the same shall be taxed as costs. In instances where services are provided for the state, including for state-paid private court-appointed counsel, payment from state funds shall be in accordance with standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board.

(3) In a criminal case in which the state or an indigent defendant requires the services of an expert witness whose opinion is relevant to the issues of the case, the expert witness shall be compensated in accordance with standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board.

Section 79. Section 914.09, Florida Statutes, is renumbered as section 92.233, Florida Statutes, and amended to read:



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92.233 ~~914.09~~ Compensation of witness summoned in two or more criminal cases.--A witness subpoenaed in two or more criminal cases pending at the same time shall be paid one charge for per diem and mileage, but when the costs are taxed against the defendant, a witness may charge the full amount in each case.

Section 80. Effective July 1, 2004, section 125.69, Florida Statutes, is amended to read:

125.69 Penalties; enforcement by code inspectors.--

(1) Violations of county ordinances shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the county ~~state~~ in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. However, a county may specify, by ordinance, a violation of a county ordinance which is punishable by a fine in an amount exceeding \$500, but not exceeding \$2,000 a day, if the county must have authority to punish a violation of that ordinance by a fine in an amount greater than \$500 in order for the county to carry out a federally mandated program.

(2) For the purpose of prosecuting violations of special laws and county ordinances notwithstanding the prosecutorial authority of the state attorney pursuant to s. 27.02(1), the board of county commissioners of each county and the governing board of each charter county may designate as the county's prosecuting attorney an attorney employed by the county or a contract attorney. Subject to the control and oversight of the appointing authority, such attorney may employ assistants as



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necessary. Such person shall have all powers exercisable by the state attorney in the prosecution of violations of county ordinances under this section as of June 30, 2004. Such person shall be subject to suspension and removal by the Governor and Senate from the exercise of prosecutorial powers in the same manner as state attorneys.

(3) Each county is authorized and required to pay any attorney appointed by the court to represent a defendant prosecuted under this section if the provision of an attorney at public expense is required by the Constitution of the United States or the Constitution of the State of Florida and if the party is indigent as established pursuant to s. 27.52. In such cases, the court shall appoint counsel to represent the defendant in accordance with s. 27.40, and shall order the county to pay the reasonable fees, expenses, and costs of such defense.

(4) The county shall bear all court fees and costs of any prosecution under this section, and may, if it prevails, recover the court fees and costs paid by it and the fees and expenses paid to court-appointed counsel as part of its judgment. The state shall bear no expense of actions brought under this section except those that it would bear in an ordinary civil action between private parties in county court.

(5)~~(2)~~ The board of county commissioners of each county may designate its agents or employees as code inspectors whose duty it is to assure code compliance. Any person designated as a code inspector may issue citations for violations of county codes and ordinances, respectively, or subsequent amendments thereto, when such code inspector has actual knowledge that a violation has been committed.





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(a) Prior to issuing a citation, a code inspector shall provide notice to the violator that the violator has committed a violation of a code or ordinance and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code inspector finds that the violator has not corrected the violation within the time period, a code inspector may issue a citation to the violator. A code inspector does not have to provide the violator with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(b) A citation issued by a code inspector shall state the date and time of issuance, name and address of the person in violation, date of the violation, section of the codes or ordinances, or subsequent amendments thereto, violated, name of the code inspector, and date and time when the violator shall appear in county court.

(c) If a repeat violation is found subsequent to the issuance of a citation, the code inspector is not required to give the violator a reasonable time to correct the violation and may immediately issue a citation. For purposes of this subsection, the term "repeat violation" means a violation of a provision of a code or ordinance by a person who has previously been found to have violated the same provision within 5 years prior to the violation, notwithstanding the violations occurred at different locations.



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(d) If the owner of property which is subject to an enforcement proceeding before county court transfers ownership of such property between the time the initial citation or citations are issued and the date the violator has been summoned to appear in county court, such owner shall:

1. Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

2. Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the county court proceeding received by the transferor.

3. Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the county court proceeding.

4. File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

A failure to make the disclosure described in subparagraphs 1., 2., and 3. before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the date the violator has been summoned to appear in county court, the proceeding shall not be dismissed but the new owner will be substituted as the party of record and thereafter provided a reasonable period of time to correct the violation before the continuation of proceedings in county court.

(e) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if



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the violation is irreparable or irreversible in nature, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code or ordinance prove unsuccessful, the local governing body may make all reasonable repairs which are required to bring the property into compliance and charge the owner with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith.

(f) Nothing in this subsection shall be construed to authorize any person designated as a code inspector to perform any function or duties of a law enforcement officer other than as specified in this subsection. A code inspector shall not make physical arrests or take any person into custody and shall be exempt from requirements relating to the Special Risk Class of the Florida Retirement System, bonding, and the Criminal Justice Standards and Training Commission, as defined and provided by general law.

(g) The provisions of this subsection shall not apply to the enforcement pursuant to ss. 553.79 and 553.80 of the Florida Building Code adopted pursuant to s. 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county.

(h) The provisions of this subsection may be used by a county in lieu of the provisions of part II of chapter 162.

(i) The provisions of this subsection are additional or supplemental means of enforcing county codes and ordinances.



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Except as provided in paragraph (h), nothing in this subsection shall prohibit a county from enforcing its codes or ordinances by any other means.

Section 81. Effective July 1, 2004, section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund ~~contents~~.--There shall be established by the clerk of the circuit court in each every county of this state a separate fund to be known as the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions. ~~The Said~~ fund shall consist of all fines and forfeitures collected by the clerk of the court for violations of in the county under the penal or traffic laws of the state, except those fines imposed under s. 775.0835(1); allocations of court costs and civil penalties pursuant to ss. 318.18 and 318.21; and assessments imposed under ss. 938.21, 938.23, and 938.25; and all costs refunded to the county; ~~all funds arising from the hire or other disposition of convicts; and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees, and costs, where the crime was committed in the county and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining in the fine and forfeiture fund at the end of a fiscal year may be transferred to the county general fund.~~

Section 82. Effective July 1, 2004, section 142.02, Florida Statutes, is amended to read:

142.02 Levy of a special tax.--The board of county commissioners of every county may levy a special tax, not to exceed 2 mills, upon the real and personal property of the



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respective counties, to be assessed and collected as other county taxes are assessed and collected, for such costs of criminal prosecutions. Proceeds of the special tax funds shall be paid out only for criminal expenses, fees, and costs, if the crime was committed in the county, and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining from the tax to fund criminal prosecutions at the end of a fiscal year may be transferred to the county general revenue fund.

Section 83. Effective July 1, 2004, section 142.03, Florida Statutes, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties.--Except as to fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, forfeitures, and civil penalties shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, 316.660, and 318.21, and except as to fines imposed under s. 775.0835(1), and assessments imposed under ss. 938.21, 938.23, and 938.25, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the clerk of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use by the clerk of the circuit court in performing court-related functions ~~of the particular county.~~

Section 84. Effective July 1, 2004, section 142.15, Florida Statutes, is amended to read:



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142.15 Prisoner confined in different county.--Where the prisoner is confined in the jail of a different county from the one in which the crime was committed, then the sheriff's bill for feeding such prisoner shall be presented to the board of county commissioners of the county in which the crime is alleged to have been committed, and paid by such county. If the sheriff should subsequently collect any such fees for feeding a prisoner, he or she shall pay the same to the county in which the crime is alleged to have been committed ~~depository, to go into the fine and forfeiture fund. The county commissioners shall see that there is always set aside and retained in the fine and forfeiture fund out of the moneys collected from the special tax authorized to be collected for such fund, enough cash to pay for keeping and feeding such prisoners.~~

Section 85. Effective July 1, 2004, section 142.16, Florida Statutes, is amended to read:

142.16 Change of venue.--In case of change of venue in any case, all fines and forfeitures in such case go to the clerk in the county in which the case was adjudicated ~~indictment was found, and the fees of all officers and witnesses are a charge upon the county in which the indictment was found, in like manner as if the trial had not been removed. All costs and fees arising from the coroner's inquest shall be a charge upon the county where the inquest is held, and shall be payable from the general revenue fund of the county.~~

Section 86. Effective July 1, 2004, subsection (3) of section 145.022, Florida Statutes, is amended to read:

145.022 Guaranteed salary upon resolution of board of county commissioners.--



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(3) This section shall not apply to county property appraisers or clerks of the circuit and county courts in the performance of their court-related functions.

Section 87. Effective July 1, 2004, section 162.30, Florida Statutes, is created to read:

162.30 Civil actions to enforce county and municipal ordinances.--In addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action shall be brought in county or circuit court, whichever is appropriate depending upon the relief sought. Counties and municipalities are authorized and required to pay any counsel appointed by the court to represent a private party in such action if the provision of counsel at public expense is required by the Constitution of the United States or the Constitution of the State of Florida and if the party is indigent as established pursuant to s. 27.52. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment. The state shall bear no expense of actions brought under this section except those that it would bear in an ordinary civil action between private parties in county court.

Section 88. Effective July 1, 2004, section 197.532, Florida Statutes, is amended to read:

197.532 Fees for mailing additional notices, when application is made by holder.--When the certificateholder makes a written request of the clerk and furnishes the names and



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addresses at the time of the filing of the application, the clerk shall send a copy of the notice referred to in s. 197.522 to anyone to whom the certificateholder may request him or her to send it, and the clerk shall include in such notice the statement required in s. 197.522. The certificateholder shall pay the clerk the service charges as prescribed in s. 28.24(5)~~(8)~~ for preparing and mailing each copy of notice requested by the holder. When the charges are made, they shall be added by the clerk to the amount required to redeem the land from sale.

Section 89. Effective July 1, 2004, subsection (3) of section 197.542, Florida Statutes, is amended to read:

197.542 Sale at public auction.--

(3) If the sale is canceled for any reason, the clerk shall immediately readvertise the sale to be held no later than 30 days after the date the sale was canceled. Only one advertisement is necessary. No further notice is required. The amount of the statutory (opening) bid shall be increased by the cost of advertising, additional clerk's fees as provided for in s. 28.24(21)~~(26)~~, and interest as provided for in subsection (1). The clerk shall receive full payment prior to the issuance of the tax deed.

Section 90. Effective July 1, 2004, subsection (2) of section 197.582, Florida Statutes, is amended to read:

197.582 Disbursement of proceeds of sale.--

(2) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the excess shall be paid over and disbursed by the clerk. If the property purchased is homestead property and the statutory bid includes an amount equal to at least one-half of the assessed value of





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the homestead, that amount shall be treated as excess and distributed in the same manner. The clerk shall distribute the excess to the governmental units for the payment of any lien of record held by a governmental unit against the property. In the event the excess is not sufficient to pay all of such liens in full, the excess shall then be paid to each governmental unit pro rata. If, after all liens of record of the governmental units upon the property are paid in full, there remains a balance of undistributed funds, the balance of the purchase price shall be retained by the clerk for the benefit of the persons described in s. 197.522(1)(a), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit. Any service charges, at the same rate as prescribed in s. 28.24(10)~~(13)~~, and costs of mailing notices shall be paid out of the excess balance held by the clerk. Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys in s. 197.473. In the event excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.

Section 91. Effective July 1, 2004, paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the



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maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

## (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), and charter counties may, in addition, use the proceeds and any interest accrued thereto to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such



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proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunding bonds prior to July 1, 1999, is ratified.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities as defined in s. 29.008.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.



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Section 92. Effective July 1, 2004, paragraph (d) of subsection (6) of section 212.20, Florida Statutes, as amended by section 1 of chapter 2002-291, Laws of Florida, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.--

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Ecosystem Management and Restoration Trust Fund to be used for water quality improvement and water restoration projects.

3. After the distribution under subparagraphs 1. and 2., 8.814 ~~9.653~~ percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.095 ~~0.065~~ percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.



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5. ~~For proceeds received after July 1, 2000, and~~ After the distributions under subparagraphs 1., 2., 3., and 4., 2.0440 ~~2.25~~ percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. ~~For proceeds received after July 1, 2000, and~~ After the distributions under subparagraphs 1., 2., 3., and 4., 1.3409 ~~1.0715~~ percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. ~~Beginning July 1, 2000, and~~ In each fiscal year ~~thereafter~~, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months.



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If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute \$166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than \$208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in



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distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

8. All other proceeds shall remain with the General Revenue Fund.

Section 93. Effective July 1, 2004, subsection (6) of section 218.21, Florida Statutes, is amended to read:

218.21 Definitions.--As used in this part, the following words and terms shall have the meanings ascribed them in this section, except where the context clearly indicates a different meaning:



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(6) "Guaranteed entitlement" means the amount of revenue which must be shared with an eligible unit of local government so that:

(a) No eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties in any fiscal year than the amount received in the aggregate from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(c), tax on cigarettes; the then-existing s. 323.16(4), road tax; and the then-existing s. 199.292(4), tax on intangible personal property.

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; the then-existing s. 323.16(3), road tax; and s. 206.605, tax on motor fuel. Any government exercising municipal powers under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities in the preceding fiscal year, plus, through fiscal year 2008-2009, a percentage increase in such amount equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year, except that for fiscal year 2005-2006 only, the percentage increase shall be based on the amount it received from the Revenue Sharing Trust Fund for Municipalities in fiscal year 2004-2005, plus a percentage increase in such amount equal to the percentage increase of such fund for fiscal year 2004-2005 excluding the increase in fiscal year 2004-2005 that is attributed to the increase in municipal revenue sharing from





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1.0715 percent to 1.3409 percent pursuant to section 92 of this act.

Section 94. Effective July 1, 2006, subsection (6) of section 218.21, Florida Statutes, as amended by section 93 of this act, is amended to read:

218.21 Definitions.--As used in this part, the following words and terms shall have the meaning ascribed them in this section, except where the context clearly indicates a different meaning:

(6) "Guaranteed entitlement" means the amount of revenue which must be shared with an eligible unit of local government so that:

(a) No eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties in any fiscal year than the amount received in the aggregate from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(c), tax on cigarettes; the then-existing s. 323.16(4), road tax; and the then-existing s. 199.292(4), tax on intangible personal property.

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; the then-existing s. 323.16(3), road tax; and s. 206.605, tax on motor fuel. Any government exercising municipal powers under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities in the preceding fiscal year, plus, through fiscal year 2008-2009, a percentage increase in such amount



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equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year, ~~except that for fiscal year 2005-2006 only, the percentage increase shall be based on the amount it received from the Revenue Sharing Trust Fund for Municipalities in fiscal year 2004-2005, plus a percentage increase in such amount equal to the percentage increase of such fund for fiscal year 2004-2005 excluding the increase in fiscal year 2004-2005 that is attributed to the increase in municipal revenue sharing from 1.0715 percent to 1.3409 percent pursuant to section 92 of this act.~~

Section 95. Effective July 1, 2009, subsection (6) of section 218.21, Florida Statutes, as amended by section 94 of this act, is amended to read:

218.21 Definitions.--As used in this part, the following words and terms shall have the meaning ascribed them in this section, except where the context clearly indicates a different meaning:

(6) "Guaranteed entitlement" means the amount of revenue which must be shared with an eligible unit of local government so that:

(a) No eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties in any fiscal year than the amount received in the aggregate from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(c), tax on cigarettes; the then-existing s. 323.16(4), road tax; and the then-existing s. 199.292(4), tax on intangible personal property.

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal



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year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; the then-existing s. 323.16(3), road tax; and s. 206.605, tax on motor fuel. Any government exercising municipal powers under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities in the preceding fiscal year, ~~plus, through fiscal year 2008-2009, a percentage increase in such amount equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year.~~

Section 96. Effective July 1, 2004, subsection (4) is added to section 218.25, Florida Statutes, to read:

218.25 Limitation of shared funds; holders of bonds protected; limitation on use of second guaranteed entitlement for counties.--

(4) Notwithstanding subsections (1) and (2), a local government may assign, pledge, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness an amount up to 50 percent of the funds received in the prior year.

Section 97. Effective July 1, 2004, subsection (2) of section 218.35, Florida Statutes, is amended to read:

218.35 County fee officers; financial matters.--

(2) The clerk of the circuit court, functioning in his or her capacity as clerk of the circuit and county courts and as clerk of the board of county commissioners, shall prepare his or her budget in two parts:

(a) The budget for funds necessary to perform court-related functions as provided for in s. 28.36, which shall



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detail the methodologies used to apportion costs between court-  
related and non-court-related functions performed by the clerk.

~~The budget relating to the state courts system, including recording, which shall be filed with the State Courts Administrator as well as with the board of county commissioners; and~~

(b) The budget relating to the requirements of the clerk as clerk of the board of county commissioners, county auditor, and custodian or treasurer of all county funds and other county-related duties.

Section 98. Effective July 1, 2004, paragraph (b) of subsection (1) and subsection (2) of section 318.15, Florida Statutes, are amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.--

(1)

(b) However, a person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9), but who subsequently fails to attend the driver improvement school within the time specified by the court shall be deemed to have admitted the infraction and shall be adjudicated guilty. In such case the person must pay the clerk of the court the 18 percent deducted pursuant to s. 318.14(9), and a ~~\$10~~ processing fee of up to \$15, after which no additional penalties, court costs, or surcharges shall be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

(2) After suspension of the driver's license and privilege to drive of a person under subsection (1), the license and



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privilege may not be reinstated until the person complies with all obligations and penalties imposed on him or her under s. 318.18 and presents to a driver license office a certificate of compliance issued by the court, together with a ~~the~~ ~~\$25~~ nonrefundable service fee of up to \$37.50 imposed under s. 322.29, or pays the aforementioned ~~\$25~~ service fee of up to \$37.50 to the clerk of the court or tax collector clearing such suspension. Such person shall also be in compliance with requirements of chapter 322 prior to reinstatement.

Section 99. Effective July 1, 2004, subsection (2), paragraphs (c), (d), (e), and (f) of subsection (3), and subsections (6), (7), and (11) of section 318.18, Florida Statutes, are amended to read:

318.18 Amount of civil penalties.--The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(2) Thirty dollars for all nonmoving traffic violations and:

(a) For all violations of s. 322.19.

(b) For all violations of ss. 320.0605, 320.07(1), 322.065, and 322.15(1). Any person who is cited for a violation of s. 320.07(1) shall be charged a delinquent fee pursuant to s. 320.07(4).

1. If a person who is cited for a violation of s. 320.0605 or s. 320.07 can show proof of having a valid registration at the time of arrest, the clerk of the court may dismiss the case and may assess a ~~\$5~~ dismissal fee of up to \$7.50. A person who finds it impossible or impractical to obtain a valid registration certificate must submit an affidavit detailing the reasons for the impossibility or impracticality. The reasons may



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include, but are not limited to, the fact that the vehicle was sold, stolen, or destroyed; that the state in which the vehicle is registered does not issue a certificate of registration; or that the vehicle is owned by another person.

2. If a person who is cited for a violation of s. 322.03, s. 322.065, or s. 322.15 can show a driver's license issued to him or her and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a \$5 dismissal fee of up to \$7.50.

3. If a person who is cited for a violation of s. 316.646 can show proof of security as required by s. 627.733, issued to the person and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a \$5 dismissal fee of up to \$7.50. A person who finds it impossible or impractical to obtain proof of security must submit an affidavit detailing the reasons for the impracticality. The reasons may include, but are not limited to, the fact that the vehicle has since been sold, stolen, or destroyed; that the owner or registrant of the vehicle is not required by s. 627.733 to maintain personal injury protection insurance; or that the vehicle is owned by another person.

(c) For all violations of ss. 316.2935 and 316.610. However, for a violation of s. 316.2935 or s. 316.610, if the person committing the violation corrects the defect and obtains proof of such timely repair by an affidavit of compliance executed by the law enforcement agency within 30 days from the date upon which the traffic citation was issued, and pays \$4 to the law enforcement agency, thereby completing the affidavit of compliance, then upon presentation of said affidavit by the defendant to the clerk within the 30-day time period set forth



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under s. 318.14(4), the fine must be reduced to \$7.50 ~~\$5~~, which the clerk of the court shall retain.

(d) For all violations of s. 316.126(1)(b), unless otherwise specified.

(3)

(c) Notwithstanding paragraph (b), a person cited for exceeding the speed limit by up to 5 m.p.h. in a legally posted school zone will be fined \$50. A person exceeding the speed limit in a school zone shall pay ~~will be assessed~~ a fine double the amount listed in paragraph (b).

(d) A person cited for exceeding the speed limit in a posted construction zone shall pay ~~will be assessed~~ a fine double the amount listed in paragraph (b). The fine shall be doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction.

(e) If a violation of s. 316.1301 or s. 316.1303 results in an injury to the pedestrian or damage to the property of the pedestrian, an additional fine of up to \$250 shall be paid ~~must be assessed~~. This amount must be distributed pursuant to s. 318.21.

(f) A person cited for exceeding the speed limit within a zone posted for any electronic or manual toll collection facility shall pay ~~will be assessed~~ a fine double the amount listed in paragraph (b). However, no person cited for exceeding the speed limit in any toll collection zone shall be subject to a doubled fine unless the governmental entity or authority controlling the toll collection zone first installs a traffic control device providing warning that speeding fines are



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doubled. Any such traffic control device must meet the requirements of the uniform system of traffic control devices.

(6) One hundred dollars or the fine amount designated by county ordinance, plus court costs for illegally parking, under s. 316.1955, in a parking space provided for people who have disabilities. However, this fine will be waived if a person provides to the law enforcement agency that issued the citation for such a violation proof that the person committing the violation has a valid parking permit or license plate issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848 or a signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred. The law enforcement officer, upon determining that all required documentation has been submitted verifying that the required parking permit or license plate was valid at the time of the violation, must sign an affidavit of compliance. Upon provision of the affidavit of compliance and payment of a ~~\$5~~ dismissal fee of up to \$7.50 to the clerk of the circuit court, the clerk shall dismiss the citation.

(7) One hundred dollars for a violation of s. 316.1001. However, a person may elect to pay \$30 to the clerk of the court, in which case adjudication is withheld, and no points are assessed under s. 322.27. Upon receipt of the fine, the clerk of the court must retain \$5 for administrative purposes and must forward the \$25 to the governmental entity that issued the citation. Any funds received by a governmental entity for this violation may be used for any lawful purpose related to the operation or maintenance of a toll facility.





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(11)(a) Court costs that are to be in addition to the stated fine must be paid ~~shall be imposed by the court~~ in an amount not less than the following and shall be deposited by the clerk into the fine and forfeiture fund established pursuant to s. 142.01:

- For pedestrian infractions.....\$ 3.
- For nonmoving traffic infractions.....\$ 16 ~~\$ 6.~~
- For moving traffic infractions.....\$ 30 ~~\$ 10.~~

(b) In addition to the court cost required ~~assessed~~ under paragraph (a), ~~the court shall impose~~ a \$3 court cost must be paid for each infraction to be distributed as provided in s. 938.01 and a \$2 court cost as provided in s. 938.15 when assessed by a municipality or county.

~~Court costs imposed under this subsection may not exceed \$30. A criminal justice selection center or other local criminal justice access and assessment center may be funded from these court costs.~~

Section 100. Effective July 1, 2004, paragraphs (g) and (h) of subsection (2) of section 318.21, Florida Statutes, are amended to read:

318.21 Disposition of civil penalties by county courts.-- All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(g)1. If the violation occurred within a municipality or a special improvement district of the Seminole Indian Tribe or



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Miccosukee Indian Tribe, 56.4 percent shall be paid to that municipality or special improvement district.

2. If the violation occurred within the unincorporated area of a county that is not within a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, 56.4 percent shall be deposited into the fine and forfeiture fund established pursuant to s. 142.01 ~~paid to that county.~~

(h) Fifteen percent must be deposited into the General Revenue County Article V Trust Fund.

Section 101. Effective July 1, 2004, section 318.325, Florida Statutes, is amended to read:

318.325 Jurisdiction and procedure for parking infractions.--Any county or municipality may adopt an ordinance that allows the county or municipality to refer cases involving the violation of a county or municipal parking ordinance to a hearing officer funded by the county or municipality ~~designated to preside over civil traffic infractions in the county.~~

Notwithstanding the provisions of ss. 318.14 and 775.08(3), any parking violation shall be deemed to be an infraction as defined in s. 318.13(3). However, the violation must be enforced and disposed of in accordance with the provisions of general law applicable to parking violations and with the charter or code of the county or municipality where the violation occurred. The clerk of the court or the designated traffic violations bureau must collect and distribute the fines, forfeitures, and court costs assessed under this section. Notwithstanding the provisions of s. 318.21, fines and forfeitures received from parking violations committed within the unincorporated areas of the county or within the boundaries of the municipality must be



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collected and paid monthly to the county or municipality, respectively. Court costs assessed by the hearing officer must be paid to the county.

Section 102. Effective July 1, 2004, subsection (1) of section 322.245, Florida Statutes, is amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter to comply with directives ordered by traffic court or upon failure to pay child support in non-IV-D cases as provided in chapter 61.--

(1) If a person who is charged with a violation of any of the criminal offenses enumerated in s. 318.17 or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, the clerk of the traffic court shall mail to the person, at the address specified on the uniform traffic citation, a notice of such failure, notifying him or her that, if he or she does not comply with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of up to \$15 ~~\$10~~ to the clerk, his or her driver's license will be suspended. The notice shall be mailed no later than 5 days after such failure. The delinquency fee may be retained by the office of the clerk to defray the operating costs of the office.

Section 103. Effective July 1, 2004, paragraph (a) of subsection (9) of section 327.73, Florida Statutes, is amended to read:

327.73 Noncriminal infractions.--

(9)(a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified



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in this section within the 30-day period provided for in s.

327.72 must pay an additional court cost of up to \$18 ~~\$12~~, which shall be used by the clerks of the courts to defray the costs of tracking unpaid uniform boating citations.

Section 104. Effective July 1, 2004, section 382.023, Florida Statutes, is amended to read:

382.023 Department to receive dissolution-of-marriage records; fees.--Clerks of the circuit courts shall collect for their services at the time of the filing of a final judgment of dissolution of marriage a fee of up to \$10.50 ~~\$7~~, of which 43 percent ~~\$3~~ shall be retained by the circuit court as a part of the cost in the cause in which the judgment is granted. The remaining 57 percent ~~\$4~~ shall be remitted to the Department of Revenue for deposit to the Department of Health to defray part of the cost of maintaining the dissolution-of-marriage records. A record of each and every judgment of dissolution of marriage granted by the court during the preceding calendar month, giving names of parties and such other data as required by forms prescribed by the department, shall be transmitted to the department, on or before the 10th day of each month, along with an accounting of the funds remitted to the Department of Revenue pursuant to this section.

Section 105. Effective July 1, 2004, paragraph (c) of subsection (4) of section 392.55, Florida Statutes, is amended to read:

392.55 Physical examination and treatment.--

(4) A warrant requiring a person to be apprehended or examined on an outpatient basis may not be issued unless:

(c) The court advises the person of the right to have legal counsel present. If the person is insolvent and unable to



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employ counsel, the court shall appoint legal counsel for the person pursuant to the indigence ~~indigency~~ criteria in s. 27.52.

Section 106. Effective July 1, 2004, paragraph (c) of subsection (3) of section 392.56, Florida Statutes, is amended to read:

392.56 Hospitalization, placement, and residential isolation.--

(3) A person may not be ordered by a circuit court to be hospitalized, placed in another health care facility or residential facility, or isolated from the general public in the home, unless:

(c) The court advises the person of the right to have counsel present. If the person is insolvent and unable to employ counsel, the court shall appoint legal counsel for the person pursuant to the indigence ~~indigency~~ criteria in s. 27.52.

Section 107. Effective July 1, 2004, section 394.473, Florida Statutes, is amended to read:

394.473 Attorney's fee; expert witness fee.--

(1) In case of the indigence ~~indigency~~ of any person for whom an attorney is appointed pursuant to the provisions of this part, the attorney shall be entitled to a reasonable fee to be determined by the court and paid from the general fund of the county from which the patient was involuntarily detained. In case of the indigence ~~indigency~~ of any such person, the court may appoint a public defender. The public defender shall receive no additional compensation other than that usually paid his or her office.

(2) In case of the indigence ~~indigency~~ of any person for whom expert testimony is required in a court hearing pursuant to the provisions of this act, the expert, except one who is



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classified as a full-time employee of the state or who is receiving remuneration from the state for his or her time in attendance at the hearing, shall be entitled to a reasonable fee to be determined by the court and paid from the general fund of the county from which the patient was involuntarily detained.

Section 108. Effective July 1, 2004, subsection (1) of section 395.3025, Florida Statutes, is amended to read:

395.3025 Patient and personnel records; copies; examination.--

(1) Any licensed facility shall, upon written request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, and insurance information concerning such person, which records are in the possession of the licensed facility, provided the person requesting such records agrees to pay a charge. The exclusive charge for copies of patient records may include sales tax and actual postage, and, except for nonpaper records which are subject to a charge not to exceed \$2 as provided in s. 28.24~~(6)~~~~(9)~~(c), may not exceed \$1 per page, as provided in s. 28.24~~(5)~~~~(8)~~(a). A fee of up to \$1 may be charged for each year of records requested. These charges shall apply to all records furnished, whether directly from the facility or from a copy service providing these services on behalf of the facility. However, a patient whose records are copied or searched for the purpose of continuing to receive medical care



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is not required to pay a charge for copying or for the search.

The licensed facility shall further allow any such person to examine the original records in its possession, or microforms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to assure that the records will not be damaged, destroyed, or altered.

Section 109. Effective July 1, 2004, section 397.334, Florida Statutes, is amended to read:

397.334 Treatment-based drug court programs.--

~~(1) It is the intent of the Legislature to implement treatment-based drug court programs in each judicial circuit in an effort to reduce crime and recidivism, abuse and neglect cases, and family dysfunction by breaking the cycle of addiction which is the most predominant cause of cases entering the justice system. The Legislature recognizes that the integration of judicial supervision, treatment, accountability, and sanctions greatly increases the effectiveness of substance abuse treatment. The Legislature also seeks to ensure that there is a coordinated, integrated, and multidisciplinary response to the substance abuse problem in this state, with special attention given to creating partnerships between the public and private sectors and to the coordinated, supported, and integrated delivery of multiple-system services for substance abusers, including a multiagency team approach to service delivery.~~

(1)(2) Each county may fund ~~judicial circuit shall~~ establish a model of a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment plans tailored to the individual



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needs of the participant. ~~These treatment-based drug court program models may be established in the misdemeanor, felony, family, delinquency, and dependency divisions of the judicial circuits.~~ It is the intent of the Legislature to encourage the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, and such other agencies, local governments, law enforcement agencies, and other interested public or private sources to support the creation and establishment of these problem-solving court programs. Participation in the treatment-based drug court programs does not divest any public or private agency of its responsibility for a child or adult, but allows these agencies to better meet their needs through shared responsibility and resources.

(2)~~(3)~~ The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

(a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.

(b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Eligible participants are identified early and promptly placed in the drug court program.

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.





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(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

(f) A coordinated strategy governs drug court program responses to participants' compliance.

(g) Ongoing judicial interaction with each drug court program participant is essential.

(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.

(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

~~(3)~~~~(4)~~ Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306.

~~(4)~~~~(5)~~(a) The Florida Association of Drug Court Program Professionals is created. The membership of the association may consist of drug court program practitioners who comprise the multidisciplinary drug court program team, including, but not limited to, judges, state attorneys, defense counsel, drug court program coordinators, probation officers, law enforcement officers, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of drug court programs. The chair is responsible for providing the association's recommendations to the Supreme Court



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Treatment-Based Drug Court Steering Committee, and shall submit a report each year, on or before October 1, to the steering committee.

(5) If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004. Counties may provide, by interlocal agreement, for the collective funding of these programs.

Section 110. Effective July 1, 2004, subsection (3) of section 712.06, Florida Statutes, is amended to read:

712.06 Contents of notice; recording and indexing.--

(3) The clerk of the circuit court shall, upon such filing, mail by registered or certified mail to the purported owner of said property, as stated in such notice, a copy thereof and shall enter on the original, before recording the same, a certificate showing such mailing. For preparing the certificate, the claimant shall pay to the clerk the service charge as prescribed in s. 28.24(8)~~(11)~~ and the necessary costs of mailing, in addition to the recording charges as prescribed in s. 28.24(12)~~(15)~~. If the notice names purported owners having more than one address, the person filing the same shall furnish a true copy for each of the several addresses stated, and the clerk shall send one such copy to the purported owners named at each respective address. Such certificate shall be sufficient if the same reads substantially as follows:

I hereby certify that I did on this \_\_\_\_\_, mail by registered (or certified) mail a copy of the foregoing notice to each of the following at the address stated:

... (Clerk of the circuit court) ...



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By ... (Deputy clerk) ...

The clerk of the circuit court is not required to mail to the purported owner of such property any such notice that pertains solely to the preserving of any covenant or restriction or any portion of a covenant or restriction.

Section 111. Effective July 1, 2004, subsection (1) of section 713.24, Florida Statutes, is amended to read:

713.24 Transfer of liens to security.--

(1) Any lien claimed under this part may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either:

- (a) Depositing in the clerk's office a sum of money, or
- (b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state,

either to be in an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for 3 years, plus \$1,000 or 25 percent of the amount demanded in the claim of lien, whichever is greater, to apply on any attorney's fees and court costs that may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded. Upon making such deposit or filing such bond, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and shall mail a copy thereof by registered or certified mail to the



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lienor named in the claim of lien so transferred, at the address stated therein. Upon filing the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. In the absence of allegations of privity between the lienor and the owner, and subject to any order of the court increasing the amount required for the lien transfer deposit or bond, no other judgment or decree to pay money may be entered by the court against the owner. The clerk shall be entitled to a fee for making and serving the certificate, in the sum of up to \$15 ~~\$10~~.

If the transaction involves the transfer of multiple liens, an additional charge of up to \$7.50 ~~\$5~~ for each additional lien shall be charged. For recording the certificate and approving the bond, the clerk shall receive her or his usual statutory service charges as prescribed in s. 28.24. Any number of liens may be transferred to one such security.

Section 112. Effective July 1, 2004, subsection (3) is added to section 721.83, Florida Statutes, to read:

721.83 Consolidation of foreclosure actions.--

(3) The clerk of court shall require a plaintiff to pay separate filing fees and service charges as provided by general law for each defendant in a consolidated foreclosure action filed pursuant to this section.

Section 113. Effective July 1, 2004, paragraph (c) of subsection (2) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.--



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(2)

(c)1. The clerk of the court shall assist petitioners in seeking both injunctions for protection against domestic violence and enforcement for a violation thereof as specified in this section.

2. All clerks' offices shall provide simplified petition forms for the injunction, any modifications, and the enforcement thereof, including instructions for completion.

3. The clerk of the court shall advise petitioners of the opportunity to apply for a certificate of indigence ~~availability of affidavits of insolvency or indigence~~ in lieu of prepayment ~~payment~~ for the cost of the filing fee, as provided in paragraph (a).

4. The clerk of the court shall ensure the petitioner's privacy to the extent practical while completing the forms for injunctions for protection against domestic violence.

5. The clerk of the court shall provide petitioners with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement.

6. Clerks of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.

7. The clerk of the court in each county shall make available informational brochures on domestic violence when such brochures are provided by local certified domestic violence centers.

8. The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the



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time of filing for an injunction for protection against domestic or repeat violence when such brochures become available. The brochure must include information about the effect of giving the court false information about domestic violence.

Section 114. Effective July 1, 2004, section 744.3135, Florida Statutes, is amended to read:

744.3135 Credit and criminal investigation.--The court may require a nonprofessional guardian and shall require a professional or public guardian, and all employees of a professional guardian who have a fiduciary responsibility to a ward, to submit, at their own expense, to an investigation of the guardian's credit history and to undergo level 2 background screening as required under s. 435.04. The clerk of the court shall obtain fingerprint cards from the Federal Bureau of Investigation and make them available to guardians. Any guardian who is so required shall have his or her fingerprints taken and forward the proper fingerprint card along with the necessary fee to the Florida Department of Law Enforcement for processing. The professional guardian shall pay to the clerk of the court a fee of up to \$7.50 ~~\$5~~ for handling and processing professional guardian files. The results of the fingerprint checks shall be forwarded to the clerk of court who shall maintain the results in a guardian file and shall make the results available to the court. If credit or criminal investigations are required, the court must consider the results of the investigations in appointing a guardian. Guardians and all employees of a professional guardian who have a fiduciary responsibility to a ward, so appointed, must resubmit, at their own expense, to an investigation of credit history, and undergo level 1 background screening as required under s. 435.03, every 2 years after the



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date of their appointment. The court must consider the results of these investigations in reappointing a guardian. This section shall not apply to a professional guardian, or to the employees of a professional guardian, that is a trust company, a state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in this state.

Section 115. Effective July 1, 2004, paragraph (a) of subsection (6) of section 744.365, Florida Statutes, is amended to read:

744.365 Verified inventory.--

(6) AUDIT FEE.--

(a) Where the value of the ward's property exceeds \$25,000, a guardian shall pay from the ward's property to the clerk of the circuit court a fee of up to \$75 ~~\$50~~, upon the filing of the verified inventory, for the auditing of the inventory. Any guardian unable to pay the auditing fee may petition the court for waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver. ~~If the fee is waived for a ward, the audit fee must be paid from the general fund of the county in which the guardianship proceeding is conducted.~~

Section 116. Effective July 1, 2004, subsection (4) of section 744.3678, Florida Statutes, is amended to read:

744.3678 Annual accounting.--

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following



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graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of \$25,000 or less the clerk of the court may charge a fee of up to \$15 ~~the fee shall be \$10.~~

(b) For estates with a value of more than \$25,000 up to and including \$100,000 the clerk of the court may charge a fee of up to \$75 ~~the fee shall be \$50.~~

(c) For estates with a value of more than \$100,000 up to and including \$500,000 the clerk of the court may charge a fee of up to \$150 ~~the fee shall be \$100.~~

(d) For estates with a value in excess of \$500,000 the clerk of the court may charge a fee of up to \$225 ~~the fee shall be \$150.~~

Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver. ~~Upon such waiver, the clerk of the circuit court shall bill the board of county commissioners for the auditing fee.~~

Section 117. Effective July 1, 2004, section 775.083, Florida Statutes, is amended to read:

775.083 Fines.--

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced





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to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain.

(2)(a) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes



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provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

~~A county may adopt an ordinance imposing, in addition to any other fine, penalty, or cost imposed by subsection (1) or any other provision of law, a fine upon any person who, with respect to a charge, indictment, or prosecution commenced in that county, pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law.~~

~~(b) The fine is \$50 for a felony and \$20 for any other offense. When the defendant enters the plea or is convicted or adjudicated, in a court in that county, the court may order the defendant to pay such fine if the court finds that the defendant has the ability to pay the fine and that the defendant would not be prevented thereby from being rehabilitated or making restitution.~~

~~(c) The clerk of the court shall collect and deposit the fines in an appropriate county account for disbursement for the purposes provided in this subsection.~~

~~(d) A county that imposes the additional fines authorized under this subsection shall account for the fines separately from other county funds, as crime prevention funds. The county, in consultation with the sheriff, must expend such fines for the costs of collecting the fines and for crime prevention programs~~



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~~in the county, including safe neighborhood programs under ss.~~

~~163.501-163.523.~~

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 118. Effective July 1, 2004, subsection (6) of section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution, etc.; evidence; penalties; definitions.--

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$500 if the violation results in any judicial disposition other than acquittal or dismissal. The proceeds from penalties assessed under this subsection shall be paid to the circuit court ~~courts~~ administrator for the sole purpose of paying the administrative costs of ~~mandatory~~ treatment-based drug court programs provided under s. 397.334.

Section 119. Effective July 1, 2004, section 914.11, Florida Statutes, is amended to read:

914.11 Indigent defendants.--~~If a court decides, on the basis of an affidavit, that~~ a defendant in a criminal case is indigent pursuant to s. 27.52 and presently unable to pay the cost of procuring the attendance of witnesses, the defendant may seek a deferral of these costs; however, the ~~such~~ defendant may subpoena the witnesses, and the costs, including the cost of the defendant's copy of all depositions and transcripts which are certified by the defendant's attorney as serving a useful purpose in the disposition of the case, shall be paid by the state ~~county~~. When depositions are taken outside the circuit in which the case is pending, travel expenses shall be paid by the



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state county in accordance with s. 112.061 and shall also be taxed as costs payable to the state.

Section 120. Effective July 1, 2004, paragraph (a) of subsection (2) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.--

(2) RIGHT TO TREATMENT.--

(a) The policy of the state is that the department shall not deny treatment or training to any client and that no services shall be delayed at a facility because the forensic client is indigent pursuant to s. 27.52 and presently unable to pay. However, every reasonable effort to collect appropriate reimbursement for the cost of providing services to clients able to pay for the services, including reimbursement from insurance or other third-party payments, shall be made by facilities providing services pursuant to this chapter and in accordance with the provisions of s. 402.33.

Section 121. Effective July 1, 2004, subsection (3) of section 916.15, Florida Statutes, is amended to read:

916.15 Involuntary commitment of defendant adjudicated not guilty by reason of insanity.--

(3) In all proceedings under this subsection, both the defendant and the state shall have the right to a hearing before the committing court. Evidence at such hearing may be presented by the hospital administrator or the administrator's designee as well as by the state and the defendant. The defendant shall have the right to counsel at any such hearing. In the event that a defendant is determined to be indigent pursuant to s. 27.52 ~~cannot afford counsel, the court shall appoint~~ the public defender shall ~~to~~ represent the defendant. The parties shall



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have access to the defendant's records at the treating facilities and may interview or depose personnel who have had contact with the defendant at the treating facilities.

Section 122. Section 938.01, Florida Statutes, as amended by section 77 of chapter 2002-402, Laws of Florida, is amended to read:

938.01 Additional Court Cost Clearing Trust Fund.--

(1) All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, require assess ~~\$3 as a court cost against~~ every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance to pay \$3 as a court cost. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be liable for payment of ~~be assessed~~ such cost. In addition, \$3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be remitted to the Department of Revenue as described in this subsection. However, no such assessment may be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles.

(a) All costs collected by the courts pursuant to this subsection shall be remitted to the Department of Revenue in accordance with administrative rules adopted by the executive director of the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund. These funds and the funds deposited in the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21(2)(c) shall be distributed as follows:

1. Ninety-two percent to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.



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2. Six and three-tenths percent to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program.

3. One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund for the domestic violence program pursuant to s. 39.903(3).

(b) The funds deposited in the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund, the Department of Law Enforcement Operating Trust Fund, and the Department of Children and Family Services Domestic Violence Trust Fund may be invested. Any interest earned from investing such funds and any unencumbered funds remaining at the end of the budget cycle shall remain in the respective trust fund.

(c) All funds in the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund shall be disbursed only in compliance with s. 943.25(9).

(2) Except as provided by s. 938.15 and notwithstanding any other provision of law, no funds collected and deposited pursuant to this section or s. 943.25 shall be expended unless specifically appropriated by the Legislature.

Section 123. Section 938.03, Florida Statutes, is amended to read:

938.03 Crimes Compensation Trust Fund.--

(1) ~~When~~ Any person pleading ~~pleads~~ guilty or nolo contendere to, or being ~~is~~ convicted of or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, ~~there~~ shall pay ~~be imposed~~ as an additional cost in the case, in addition and prior



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to any other cost required to be imposed by law, the sum of \$50. Any person whose adjudication is withheld shall also be assessed such cost.

(2) These costs shall not be ~~are considered assessed unless specifically~~ waived by the court. ~~If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.~~

(3) In the event that the individual has been ordered to pay restitution in accordance with s. 775.089, costs referenced in this section shall be included in a judgment.

(4) The clerk of the court shall collect and forward \$49 of each \$50 collected to the Department of Revenue, to be deposited in the Crimes Compensation Trust Fund. The clerk shall retain the remaining \$1 of each \$50 collected as an additional cost by a service charge of the clerk's office. ~~Under no condition shall a political subdivision be held liable for the payment of this sum of \$50.~~

Section 124. Effective July 1, 2004, section 938.05, Florida Statutes, is amended to read:

938.05 Additional court costs for felonies, misdemeanors, and criminal traffic offenses ~~Local Government Criminal Justice Trust Fund.--~~

(1) ~~When~~ Any person pleading ~~pleads~~ nolo contendere to a misdemeanor or criminal traffic offense under s. 318.14(10)(a) or pleading ~~pleads~~ guilty or nolo contendere to, or being is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, ~~there shall~~ pay ~~be imposed~~ as a



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cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

- (a) Felonies.....\$200
- (b) Misdemeanors.....\$50
- (c) Criminal traffic offenses.....\$50

(2) Payment of the additional court costs provided for in subsection (1) shall be made part of any plea agreement reached by the prosecuting attorney and defense counsel or the criminal defendant where the plea agreement provides for the defendant to plead guilty or nolo contendere to any felony, misdemeanor, or criminal traffic offense under the laws of this state or any municipal or county ordinance which adopts by reference any misdemeanor under state law.

(3) The clerk of the court shall collect such additional costs for deposit in the fine and forfeiture fund established pursuant to s. 142.01 and shall notify the agency supervising a person upon whom costs have been imposed upon full payment of fees. ~~The clerk shall deposit all but \$3 for each misdemeanor or criminal traffic case and all but \$5 for each felony case in a special trust fund of the county. Such funds shall be used exclusively for those purposes set forth in s. 27.3455(3). The clerk shall retain \$3 for each misdemeanor or criminal traffic case and \$5 for each felony case of each scheduled amount collected as a service charge of the clerk's office. A political subdivision shall not be held liable for the payment of the additional costs imposed by this section.~~

Section 125. Effective July 1, 2004, subsection (1) of section 938.06, Florida Statutes, is amended to read:

938.06 Additional cost for crime stoppers programs.--





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(1) In addition to any fine prescribed by law for any criminal offense, there is hereby assessed as a court cost an additional surcharge of \$20 on such fine, which shall be imposed by all county and circuit courts and collected by the clerks of the courts together with such fine. ~~No political subdivision shall be held liable for payment of costs under this section.~~

Section 126. Effective July 1, 2004, section 938.19, Florida Statutes, is amended to read:

938.19 ~~Teen courts; operation and administration.--~~  
Counties are hereby authorized to fund teen courts.  
~~Notwithstanding s. 318.121, in each county in which a teen court has been created, a county may adopt a mandatory cost to be assessed in specific cases as provided for in subsection (1) by incorporating by reference the provisions of this section in a county ordinance. Assessments collected by the clerk of the circuit court pursuant to this section shall be deposited into an account specifically for the operation and administration of the teen court:~~

~~(1) A sum of \$3, which shall be assessed as a court cost by both the circuit court and the county court in the county against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance or who pays a fine or civil penalty for any violation of chapter 316. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. The \$3 assessment for court costs shall be assessed in addition to any fine, civil penalty, or other court cost and shall not be deducted from the proceeds of that portion of any fine or civil penalty which is received by a municipality~~



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~~in the county or by the county in accordance with ss. 316.660 and 318.21. The \$3 assessment shall specifically be added to any civil penalty paid for a violation of chapter 316, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court. However, the \$3 assessment shall not be made against a person for a violation of any state statutes, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws. The clerk of the circuit court shall collect the respective \$3 assessments for court costs established in this subsection and shall remit the same to the teen court monthly, less 5 percent, which is to be retained as fee income of the office of the clerk of the circuit court.~~

~~(2) Such other moneys as become available for establishing and operating teen courts under the provisions of Florida law.~~

Section 127. Section 938.27, Florida Statutes, is amended to read:

938.27 Judgment for costs on conviction.--

(1) In all criminal cases, convicted persons are liable for payment of the documented costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Division of Financial Investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission Banking and Finance, if requested and documented by such agencies. These costs, shall be included and entered in the judgment rendered against the convicted person.



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~~(2) If the court does not enter costs, or orders only partial costs under this section, it shall state on the record the reasons therefor.~~

(2)~~(3)~~(a) The court shall ~~may~~ require ~~that~~ the defendant to pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;
2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or
3. Five years after the date of sentencing in any other case.

However, in no event shall the obligation to pay any unpaid amounts expire if not paid in full within the period specified in this paragraph.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(3)~~(4)~~ If a defendant is placed on probation or community control, payment of any costs ~~ordered~~ under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to pay these costs ~~comply with such order~~.

~~(5) The court, in determining whether to order costs and the amount of such costs, shall consider the amount of the costs incurred, the financial resources of the defendant, the~~



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~~financial needs and earning ability of the defendant, and such other factors which it deems appropriate.~~

(4)~~(6)~~ Any dispute as to the proper amount or type of costs ~~ordered~~ shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of costs incurred is on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(5)~~(7)~~ Any default in payment of costs ~~ordered~~ may be collected by any means authorized by law for enforcement of a judgment.

(6)~~(8)~~ The ~~court may order the~~ clerk of the court shall ~~to~~ collect and dispense cost payments in any case.

(7)~~(9)~~ Investigative costs which are recovered shall be returned to the appropriate investigative agency which incurred the expense. Costs shall include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees. Any investigative costs recovered on behalf of a state agency must be remitted to the Department of Revenue for deposit in the agency operating trust fund, and a report of the payment must be sent to the agency.

(8)~~(10)~~ Costs that are collected by the state attorney under this section shall be deposited into the state attorney's grants and donations trust fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and



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prosecuting criminal cases, which may include the salaries of permanent employees.

Section 128. Section 938.29, Florida Statutes, is amended to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.--

(1)(a) A defendant ~~The court having jurisdiction over any defendant who has been~~ determined to be guilty of a criminal act by a court or jury or through a plea of guilty or nolo contendere and who has received the assistance of the public defender's office, a special assistant public defender, or a conflict attorney shall be liable for payment of assess attorney's fees and costs. The court ~~against the defendant at the sentencing hearing and~~ shall determine the appropriate amount of the obligation and method of payment. Such costs shall ~~may~~ include, but not be limited to, the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the state and the clerk of court ~~county~~ for the defense of the defendant in criminal prosecutions ~~within the county~~. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any costs assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. 938.05.



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(b) Upon entering a judgment of conviction, ~~the trial court shall order~~ the defendant shall be liable to pay the costs assessed by the court in full, ~~or within a time certain as set by the court,~~ after the judgment of conviction becomes final.

(c) ~~After assessment of the application fee under s. 27.52(1)(c) and attorney's fees and costs, the court shall order~~ The defendant shall ~~to~~ pay the application fee under s. 27.52(2)(a) and attorney's fees and costs in full or in installments, at the time or times specified. The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. Attorney's fees and costs collected under this section shall be deposited into the General Revenue Fund. ~~All fees and costs may be assessed under one judgment.~~

(2)(a) ~~When payment of the application fee and attorney's fees and costs has been ordered by the court,~~ There is created in the name of the state ~~county in which such assistance was rendered~~ a lien, enforceable as hereinafter provided, upon all the property, both real and personal, of any person who:

1. Has received any assistance from any public defender of the state, from any special assistant public defender, or from any conflict attorney; or

2. Is a parent of an accused minor or an accused adult tax-dependent person who is being, or has been, represented by any public defender of the state, by any special assistant public defender, or by a conflict attorney.

Such lien constitutes a claim against the defendant-recipient or parent and his or her estate, enforceable according to law, ~~in~~



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~~an amount to be determined by the court in which such assistance was rendered.~~

(b) ~~Immediately after the issuance of an order for the payment of the application fee and attorney's fees and costs,~~ A judgment showing the name and residence of the defendant-recipient or parent shall be filed for record in the office of the clerk of the circuit court in the county where the defendant-recipient or parent resides and in each county in which such defendant-recipient or parent then owns or later acquires any property. Such judgments shall be enforced on behalf of the state county by the clerk of the circuit court board of county commissioners of the county in which assistance was rendered.

(3) The clerk of the circuit court within the county ~~board of county commissioners of the county~~ wherein the defendant-recipient was tried or received the services of a public defender, special assistant public defender, or appointed private legal counsel shall enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A defendant-recipient or parent, liable ~~who has been ordered~~ to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for deferral ~~remission~~ of the payment of attorney's fees or costs or of any unpaid portion thereof. ~~If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on such person or his or her immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.~~



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(4) The clerk ~~board of county commissioners~~ of the county claiming such lien is authorized to contract with a private attorney or collection agency for collection of such debts or liens, provided the fee for such collection shall be on a contingent basis not to exceed 50 percent of the recovery. However, no fee shall be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.

(5) No lien thus created shall be foreclosed upon the homestead of such defendant-recipient or parent, nor shall any defendant-recipient or parent liable for payment of ~~who is ordered to pay~~ attorney's fees or costs be denied any of the protections afforded any other civil judgment debtor.

(6) The court having jurisdiction of the defendant-recipient shall ~~may~~, at such stage of the proceedings as the court may deem appropriate, determine the value of the services of the public defender, special assistant public defender, or appointed private legal counsel and costs, at which time the defendant-recipient or parent, after adequate notice thereof, shall have opportunity to be heard and offer objection to the determination, and to be represented by counsel, with due opportunity to exercise and be accorded the procedures and rights provided in the laws and court rules pertaining to civil cases at law.

Section 129. Subsections (1), (2), (9), (10), (11), (12), (13), and (14) of section 938.30, Florida Statutes, are amended to read:

938.30 ~~Court-imposed~~ Financial obligations in criminal cases; supplementary proceedings.--





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(1) Any person liable for payment of ~~who has been ordered to pay~~ any financial obligation in any criminal case is subject to the provisions of this section. Courts operating under the provisions of this section shall have jurisdiction over such ~~court-imposed~~ financial obligations to ensure compliance.

(2) The court may require a person liable for payment of ~~ordered to pay~~ an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation. ~~The court may reduce a person's court-ordered financial obligation based on the court's determination of the person's ability to pay the obligation.~~ The judge may convert the statutory financial ~~court-ordered~~ obligation into ~~to pay~~ ~~court costs~~ to a court-ordered obligation to perform community service after examining a person under oath and determining a person's inability to pay. Any person failing to attend a hearing may be arrested on warrant or *capias* which may be issued by the clerk upon order of the court.

(9) Any person failing to appear or willfully failing to comply with an order under this section, including an order to comply with a payment schedule established by the clerk of court, may be held in civil contempt.

(10) Administrative costs incurred in enforcing compliance under this section shall be paid by ~~may be assessed against~~ the person. Such costs may include postage, copying, docketing fees, service fees, court reporter's fees, and reimbursements for the costs of processing bench warrants and pickup orders. Reasonable attorney's fees may be assessed at the court's discretion. Judges may assess such administrative costs and attorney's fees against the person as the court deems necessary to offset such fees and costs incurred under this section.



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

~~(12) A record of court-imposed financial obligations collected by the clerk of court under the provisions of this section shall be reported quarterly by the clerk of court to the chief judge of the judicial circuit.~~

~~(13) Court-imposed financial obligations arising from criminal cases which are past due, and which have been reduced to judgment by the court, may be referred by the county commission to a collection agent who is registered and in good standing pursuant to chapter 559 or a private attorney. Such referrals must be made in accordance with established bid practices.~~

(12)~~(14)~~ The provisions of this section may be used in addition to, or in lieu of, other provisions of law for enforcing payment of court-imposed financial obligations in criminal cases. The court may enter any orders necessary to carry out the purposes of this section.

Section 130. Section 938.35, Florida Statutes, is amended to read:

938.35 Collection of court-related financial obligations.-  
-The board of county commissioners may pursue the collection of any fines, court costs, or other costs to which it is entitled which remain unpaid for 90 days or more, or refer such collection to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations



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through a private attorney or collection agent, the board of county commissioners must determine this is cost-effective and follow applicable procurement practices. ~~Any provision of law notwithstanding, a county may pursue the collection of any fines, court costs, or other costs imposed by the court which remain unpaid for 90 days or more, or refer such collection to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the governing body of the county must determine that such collection is cost-effective and the county must follow applicable procurement practices. The costs of collection, including a reasonable attorney's fee, may be recovered, except that such fees and costs of collection may not exceed 40 percent of the total fines and costs owed.~~

Section 131. Effective July 1, 2004, section 939.06, Florida Statutes, is amended to read:

939.06 Acquitted defendant not liable for costs.--No defendant in a criminal prosecution who is acquitted or discharged shall be liable for any costs or fees of the court or any ministerial office, or for any charge of subsistence while detained in custody. If the defendant shall have paid any taxable costs in the case, the clerk or judge shall give him or her a certificate of the payment of such costs, with the items thereof, which, when audited and approved according to law, shall be refunded to the defendant ~~by the county.~~

Section 132. Effective July 1, 2004, section 939.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See



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s. 939.08, F.S., for present text.)

939.08 Costs to be certified before audit.--In all cases wherein is claimed the payment of applicable bills of costs, fees, or expenses of the state courts system as provided in s. 29.004, other than juror and witness fees, in the adjudication of any case payable by the state, the trial court administrator shall review the itemized bill. The bill shall not be paid until the trial court administrator has approved it and certified that it is just, correct, and reasonable and contains no unnecessary or illegal item.

Section 133. Effective July 1, 2004, section 939.12, Florida Statutes, is amended to read:

939.12 Cost against state in Supreme Court.--The clerk of the Supreme Court shall give, upon application, a certified copy of any judgment against the state upon appeal in criminal cases, and the ~~state county commissioners of the county from the court of which such appeal was taken~~ shall pay the same to the appellant, or the appellant's agent or attorney, on demand.

Section 134. For the purpose of incorporating the amendments made by this act to sections 27.51 and 27.53, Florida Statutes, in references thereto, effective July 1, 2004, section 943.053, Florida Statutes, as otherwise amended is reenacted to read:

943.053 Dissemination of criminal justice information; fees.--

(1) The Department of Law Enforcement shall disseminate criminal justice information only in accordance with federal and state laws, regulations, and rules.

(2) Criminal justice information derived from federal criminal justice information systems or criminal justice



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information systems of other states shall not be disseminated in a manner inconsistent with the laws, regulations, or rules of the originating agency.

(3) Criminal history information, including information relating to minors, compiled by the Criminal Justice Information Program from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge and, otherwise, to governmental agencies not qualified as criminal justice agencies on an approximate-cost basis. After providing the program with all known identifying information, persons in the private sector may be provided criminal history information upon tender of fees as established and in the manner prescribed by rule of the Department of Law Enforcement. Such fees shall approximate the actual cost of producing the record information. As used in this subsection, the department's determination of actual cost shall take into account the total cost of creating, storing, maintaining, updating, retrieving, improving, and providing criminal history information in a centralized, automated database, including personnel, technology, and infrastructure expenses. Actual cost shall be computed on a fee-per-record basis, and any access to criminal history information by the private sector as provided in this subsection shall be assessed the per-record fee without regard to the quantity or category of criminal history record information requested. Fees may be waived by the executive director of the Department of Law Enforcement for good cause shown.

(4) Criminal justice information provided by the Department of Law Enforcement shall be used only for the purpose stated in the request.



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(5) Notwithstanding any other provision of law, the department shall provide to the Florida Department of Revenue Child Support Enforcement access to Florida criminal records which are not exempt from disclosure under chapter 119, and to such information as may be lawfully available from other states via the National Law Enforcement Telecommunications System, for the purpose of locating subjects who owe or potentially owe support, as defined in s. 409.2554, or to whom such obligation is owed pursuant to Title IV-D of the Social Security Act. Such information may be provided to child support enforcement authorities in other states for these specific purposes.

(6) Notwithstanding any other provision of law, the department shall provide to each office of the public defender on-line access to criminal records of this state which are not exempt from disclosure under chapter 119 or confidential under law. Such access shall be used solely in support of the duties of a public defender as provided in s. 27.51 or of any attorney specially assigned as authorized in s. 27.53 in the representation of any person who is determined indigent as provided in s. 27.52. The costs of establishing and maintaining such on-line access shall be borne by the office to which the access has been provided.

(7) Notwithstanding the provisions of s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the sheriff of any county that has contracted with a private entity to operate a county detention facility pursuant to the provisions of s. 951.062 shall provide that private entity, in a timely manner, copies of the Florida criminal history records for its inmates. The sheriff may assess a charge



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for the Florida criminal history records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1).

(8) Notwithstanding the provisions of s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the Department of Corrections shall provide, in a timely manner, copies of the Florida criminal history records for inmates housed in a private state correctional facility to the private entity under contract to operate the facility pursuant to the provisions of s. 944.105 or s. 957.03. The department may assess a charge for the Florida criminal history records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1).

(9) Notwithstanding the provisions of s. 943.0525 and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059, the Department of Juvenile Justice or any other state or local criminal justice agency may provide copies of the Florida criminal history records for juvenile offenders currently or formerly detained or housed in a contracted juvenile assessment center or detention facility or serviced in a contracted treatment program and for employees or other individuals who will have access to these facilities, only to the entity under direct contract with the Department of Juvenile Justice to operate these facilities or programs pursuant to the provisions of s. 985.411. The criminal justice agency providing such data may assess a charge for the Florida criminal history



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records pursuant to the provisions of chapter 119. Sealed records received by the private entity under this section remain confidential and exempt from the provisions of s. 119.07(1). Information provided under this section shall be used only for the criminal justice purpose for which it was requested and may not be further disseminated.

Section 135. Effective July 1, 2004, section 947.18, Florida Statutes, is amended to read:

947.18 Conditions of parole.--No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission finds that there is reasonable probability that, if the person is placed on parole, he or she will live and conduct himself or herself as a respectable and law-abiding person and that the person's release will be compatible with his or her own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he or she will be suitably employed in self-sustaining employment or that he or she will not become a public charge. The commission shall determine the terms upon which such person shall be granted parole. If the person's conviction was for a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). In addition to any other lawful condition of parole, the commission may make the payment of the debt due and owing to the state under s. 960.17 or the payment of the attorney's fees and costs due and owing to the





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state a county under s. 938.29 a condition of parole subject to modification based on change of circumstances.

Section 136. Effective July 1, 2004, paragraph (i) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation or community control.--

(1) The court shall determine the terms and conditions of probation or community control. Conditions specified in paragraphs (a)-(m) do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (a)-(m) and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions may include among them the following, that the probationer or offender in community control shall:

(i) Pay any application fee assessed under s. 27.52(2)(a)~~(1)(e)~~ and attorney's fees and costs assessed under s. 938.29, subject to modification based on change of circumstances.

Section 137. Effective July 1, 2004, paragraphs (a) and (1) of subsection (1) of section 960.001, Florida Statutes, are amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.-

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law



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Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of adult and juvenile crime.--~~Witness coordination offices~~ As provided in s. 27.0065, state attorneys and public defenders ~~43.35~~ shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system as well as what the system expects from the victim;
4. The stages in the criminal or juvenile justice process which are of significance to the victim and the manner in which information about such stages can be obtained;



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5. The right of a victim, who is not incarcerated, including the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution;

6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings; and

7. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.

(1) Local witness coordination services ~~coordinating office~~.--The requirements for notification provided for in paragraphs (b), (d), (f), and (i) may be performed by the state attorney or public defender as provided in local witness ~~coordinating office established by s. 27.0065 43.35~~, as appropriate.

Section 138. Effective July 1, 2004, paragraph (a) of subsection (1) of section 984.08, Florida Statutes, is amended to read:

984.08 Attorney's fees.--



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(1) The court may appoint an attorney to represent a parent or legal guardian under this chapter only upon a finding that the parent or legal guardian is indigent.

(a) The finding of indigence ~~indigency~~ of any parent or legal guardian may be made by the court at any stage of the proceedings. Any parent or legal guardian claiming indigence ~~indigency~~ shall file with the court an affidavit containing the factual information required in paragraphs (c) and (d).

Section 139. Effective July 1, 2004, subsections (1), (2), and (3) of section 985.203, Florida Statutes, are amended to read:

985.203 Right to counsel.--

(1) A child is entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and the parents or other legal guardian are indigent and unable to employ counsel for the child, the court shall appoint counsel pursuant to s. 27.52. Determination of indigence ~~indigency~~ and costs of representation shall be as provided by ss. 27.52 and 938.29. Legal counsel representing a child who exercises the right to counsel shall be allowed to provide advice and counsel to the child at any time subsequent to the child's arrest, including prior to a detention hearing while in secure detention care. A child shall be represented by legal counsel at all stages of all court proceedings unless the right to counsel is freely, knowingly, and intelligently waived by the child. If the child appears without counsel, the court shall advise the child of his or her rights with respect to representation of court-appointed counsel.

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall



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appoint counsel pursuant to s. 27.52(3)(2)(d) to represent the child at the detention hearing and until counsel is provided. Costs of representation are hereby imposed ~~shall be assessed~~ as provided by ss. 27.52(3)(2)(d) and 938.29. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52(2)(d) if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have willfully refused to obey the court order. Costs of representation are hereby imposed ~~shall be assessed~~ as provided by ss. 27.52(2)(d) and 938.29.

Section 140. Effective July 1, 2004, paragraph (b) of subsection (6) of section 985.215, Florida Statutes, is amended to read:

985.215 Detention.--

(6)

(b) At the time of the detention hearing, the department shall report to the court, verbally or in writing, any available information concerning the ability of the parent or guardian of the child to pay such fee. If the court makes a finding of indigence ~~indigency~~, the parent or guardian shall pay to the department a nominal subsistence fee of \$2 per day that the



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child is securely detained outside the home or \$1 per day if the child is otherwise detained in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigence ~~indigency~~ and the finding of significant financial hardship.

Section 141. Effective July 1, 2004, paragraph (b) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.--

(1)

(b)1. When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the parents of such child to pay fees to the department in the amount of \$5 per day that the child is under the care or supervision of the department in order to partially offset the cost of the care, support, maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children while in the recommended residential commitment level, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

2. No later than the disposition hearing, the department shall provide the court with information concerning the actual cost of care, support, and maintenance of the child in the recommended residential commitment level and concerning the



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ability of the parent or guardian of the child to pay any fees. If the court makes a finding of indigence ~~indigency~~, the parent or guardianship shall pay to the department a nominal subsistence fee of \$2 per day that the child is committed outside the home or \$1 per day if the child is otherwise supervised in lieu of other fees related to the parents' obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigence ~~indigency~~ and the finding of significant financial hardship.

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to placement under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense.

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount of \$5 per day related to the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian.



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With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than \$1 nor more than \$5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, state of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the





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amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

8. The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interests consistent with prevailing loan rates.

9. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

10. Neither the court nor the department may extend the child's length of stay in placement care solely for the purpose of collecting fees.

Section 142. Effective July 1, 2004, paragraph (d) of subsection (4) of section 985.233, Florida Statutes, is amended to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.--

(4) SENTENCING ALTERNATIVES.--

(d) *Recoupment of cost of care in juvenile justice facilities.--*

1. When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the parents of such child to pay fees in the amount of \$5 per day that the child is under the care or supervision of the



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department in order to partially offset the cost of the care, support, maintenance, and other usual and ordinary obligations of parents to provide for the needs of their children, unless the court makes a finding on the record that the parent or legal guardian of the child is indigent.

2. Prior to commitment, the department shall provide the court with information concerning the actual cost of care in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay specified fees. If the court makes a finding of indigence ~~indigency~~, the parent or guardian shall pay to the department a nominal subsistence fee of \$2 per day that the child is committed outside the home or \$1 per day if the child is otherwise supervised in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigence ~~indigency~~ and the finding of significant financial hardship.

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to commitment under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.



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4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount of \$5 per day related to the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than \$1 nor more than \$5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial



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information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

8. Neither the court nor the department may extend the child's length of stay in commitment care solely for the purpose of collecting fees.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 143. The Department of Financial Services shall undertake a review of the Florida Accounting Information Resource subsystem and Uniform Accounting System Manual in accounting for state and county expenditures and revenues associated with Article V of the Florida Constitution. Necessary revisions to account codes, account descriptions, categories, and object codes shall be implemented prior to July 1, 2004. In



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completing this review, the department shall consult with clerks of court, county commissioners, judges, state attorneys, and public defenders. The Auditor General shall provide technical advice to the department in undertaking this review.

Section 144. Effective July 1, 2003, the Chief Financial Officer shall undertake a study to determine county expenditures for court-related services for the county fiscal year ended September 30, 2002. The Chief Financial Officer shall provide the form and manner in which the clerks of court, or the appropriate county officer in those counties where the clerk of court is not the county's chief financial officer, shall submit expenditure data and the timeframes within which the data must be provided. The clerks of court, state attorneys, public defenders, court administrators, boards of county commissioners, and sheriffs shall assist the Chief Financial Officer in the collection of the necessary expenditure data. The Legislative Committee on Intergovernmental Relations may also assist in gathering and assessing the expenditure data and provide technical assistance. The Auditor General shall provide technical advice with respect to the collection and analysis of the expenditure data.

(1) Expenditure data shall be reported to the Chief Financial Officer at the transaction code level and, for specific transaction codes specified by the Chief Financial Officer, object/sub-object level, as set forth in the Uniform Accounting System Manual developed by the Chief Financial Officer pursuant to s. 218.33. Expenditure data provided for specific programs or purposes shall include identification of the specific account codes within the Uniform Accounting System Manual in which the costs were recorded. The clerks of the



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court, or the appropriate county officer in those counties where the clerk of court is not the county's chief financial officer, must reconcile the expenditure data provided to the Chief Financial Officer with the Annual Financial Report required by s. 218.32. The clerks of court must attest to the accuracy of the expenditure data provided to the Chief Financial Officer. State attorneys, public defenders, court administrators, boards of county commissions chairpersons, and sheriffs shall each attest to the accuracy of any expenditure data they submit to the clerks.

(2) The Chief Financial Officer shall reimburse individuals for travel costs incurred as a result of participation in the collection and analysis of the expenditure data from funds specifically appropriated for such purpose.

(3) The Chief Financial Officer shall submit a report to the President of the Senate and Speaker of the House of Representatives no later than November 1, 2003, summarizing the court-related cost information submitted by the clerks of court.

(4) The sum of \$200,000 from the Insurance Regulatory Trust Fund is appropriated to the Department of Financial Services for state fiscal year 2003-2004 to support this project.

Section 145. It is the intent of the Legislature to implement Revision 7 to Article V of the Florida Constitution in a way which recognizes the allocation of funding responsibilities among the state, counties, and system users. The Legislature hereby declares that the provisions of this act designed to achieve that allocation of responsibility fulfills an important state interest.

Section 146. For the purpose of implementing Section 14,



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Article V of the State Constitution, the transfer of the funding responsibility for the state courts system shall not affect the validity of any judicial or administrative proceeding pending on the day of the transfer. The entity providing appropriations on and after July 1, 2004, shall be considered the successor in interest to any existing contracts ratified by the successor entity, but is not responsible for funding or payment of any service rendered or provided, in whole or in part, prior to July 1, 2004.

Section 147. Notwithstanding any law to the contrary, any judicial act may be taken or performed on any day of the week, including Sundays and holidays.

Section 148. Notwithstanding s. 938.19, Florida Statutes, to the contrary, any court may use surplus funds provided for teen courts for juvenile drug courts. This section expires July 1, 2004.

Section 149. Service charges and fees imposed by the governing authority of counties by ordinance and special law pursuant to authority granted in ss. 28.242-34.041, Florida Statutes, prior to June 30, 2004, are repealed and abolished effective July 1, 2004.

Section 150. Each clerk of the court shall submit to the President of the Senate and the Speaker of the House of Representatives by November 1, 2003, a report identifying court-related functions and associated costs for county fiscal year 2003-2004. The report shall detail the methodologies used to apportion costs between court-related and non-court-related functions performed by the clerk.

Section 151. By October 1, 2003, each clerk of the court must notify the Clerk of Court Operations Conference created



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pursuant to s. 28.35, Florida Statutes, of the entire schedule of court-related fees, service charges, and costs that he or she elects to charge effective July 1, 2004, based on the statutory authorizations that are effective July 1, 2004. The Clerk of Court Operations Conference shall submit this information to the Legislature in a uniform format with appropriate summaries and explanatory information no later than November 1, 2003.

Section 152. Sections 25.402 and 34.201, Florida Statutes, are repealed.

Section 153. Effective July 1, 2004, sections 27.005, 27.006, 27.271, 27.33, 27.3455, 27.36, 27.385, 27.605, 29.002, 29.003, 29.009, 29.011, 43.28, 50.071, 57.091, 218.325, 914.06, 925.035, 925.036, 925.037, 939.05, 939.07, 939.10, and 939.15, Florida Statutes, are repealed.

Section 154. If any law amended by this act was also amended by a law enacted at the 2003 Regular Session of the Legislature, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.

Section 155. Except as otherwise provided herein, this act shall take effect July 1, 2003.