

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to magistrates and masters; amending ss.
7 26.012, 27.06, 34.01, 48.20, 142.09, 316.635, 373.603,
8 381.0012, 450.121, 560.306, 633.14, 648.44, 817.482,
9 832.05, 876.42, 893.12, 901.01, 901.02, 901.07, 901.08,
10 901.09, 901.11, 901.12, 901.25, 902.15, 902.17, 902.20,
11 902.21, 903.03, 903.32, 903.34, 914.22, 923.01, 933.01,
12 933.06, 933.07, 933.10, 933.101, 933.13, 933.14, 939.02,
13 939.14, 941.13, 941.14, 941.15, 941.17, 941.18, 947.141,
14 948.06, and 985.05, F.S., relating to various court
15 procedures; redesignating "magistrates" as "trial court
16 judges"; amending ss. 29.004, 56.071, 56.29, 61.1826,
17 64.061, 65.061, 69.051, 70.51, 92.142, 112.41, 112.43,
18 112.47, 162.03, 162.06, 162.09, 173.09, 173.10, 173.11,
19 173.12, 194.013, 194.034, 194.035, 206.16, 207.016,
20 320.411, 393.11, 394.467, 397.311, 397.681, 447.207,
21 447.403, 447.405, 447.407, 447.409, 475.011, 489.127,
22 489.531, 496.420, 501.207, 501.618, 559.936, 582.23,
23 631.182, 631.331, 633.052, 744.369, 760.11, 837.011,

HB0111

2004
CS

24 838.014, 839.17, 916.107, 938.30, and 945.43, F.S.,
 25 relating to various administrative and judicial
 26 proceedings; redesignating "masters" and "general or
 27 special masters" as "general or special magistrates";
 28 providing an effective date.

29

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

31

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

34 26.012 Jurisdiction of circuit court.--

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

36 Section 2. Section 27.06, Florida Statutes, is amended to
 37 read:

38 27.06 Habeas corpus and preliminary trials.--The several
 39 state attorneys of this state shall represent the state in all
 40 cases of habeas corpus arising in their respective circuits, and
 41 shall also represent the state, either in person or by
 42 assistant, in cases of preliminary trials of persons charged
 43 with capital offenses in all cases where the committing trial
 44 court judge ~~magistrate~~ shall have given due and timely notice of
 45 the time and place of such trial. Notice of the application for
 46 the writ of habeas corpus shall be given to the prosecuting
 47 officer of the court wherein the statute under attack is being
 48 applied, the criminal law proceeding is being maintained, or the
 49 conviction has occurred.

HB0111

2004
CS

50 Section 3. Subsection (8) of section 29.004, Florida
51 Statutes, as amended by chapter 2003-402, Laws of Florida, is
52 amended to read:

53 29.004 State courts system.--For purposes of implementing
54 s. 14, Art. V of the State Constitution, the essential elements
55 of the state courts system are as follows:

56 (8) General magistrates, special magistrates, ~~Masters~~ and
57 hearing officers.

58 Section 4. Subsections (2) and (3) of section 34.01,
59 Florida Statutes, are amended, and subsection (5) is added to
60 that section, to read:

61 34.01 Jurisdiction of county court.--

62 (2) The county courts shall have jurisdiction previously
63 exercised by county judges' courts other than that vested in the
64 circuit court by s. 26.012, except that county court judges may
65 hear matters involving dissolution of marriage under the
66 simplified dissolution procedure pursuant to ~~Rule 1.611(c),~~
67 Florida Family Law Rules of ~~Civil~~ Procedure or may issue a final
68 order for dissolution in cases where the matter is uncontested,
69 and the jurisdiction previously exercised by county courts, the
70 claims court, small claims courts, small claims magistrates
71 courts, magistrates courts, justice of the peace courts,
72 municipal courts, and courts of chartered counties, including
73 but not limited to the counties referred to in ss. 9, 10, 11,
74 and 24, Art. VIII of the State Constitution of 1885 as preserved
75 by s. 6(e), Art. VIII of the State Constitution of 1968.

76 (3) Judges of county courts shall also be committing trial
77 court judges ~~magistrates~~. Judges of county courts shall be

HB0111

2004
CS

78 coroners unless otherwise provided by law or by rule of the
79 Supreme Court.

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

81 Section 5. Section 48.20, Florida Statutes, is amended to
82 read:

83 48.20 Service of process on Sunday.--Service or execution
84 on Sunday of any writ, process, warrant, order, or judgment is
85 void and the person serving or executing, or causing it to be
86 served or executed, is liable to the party aggrieved for damages
87 for so doing as if he or she had done it without any process,
88 writ, warrant, order, or judgment. If affidavit is made by the
89 person requesting service or execution that he or she has good
90 reason to believe that any person liable to have any such writ,
91 process, warrant, order, or judgment served on him or her
92 intends to escape from this state under protection of Sunday,
93 any officer furnished with an order authorizing service or
94 execution by the trial court judge ~~or magistrate of any~~
95 ~~incorporated town~~ may serve or execute such writ, process,
96 warrant, order, or judgment on Sunday, and it is as valid as if
97 it had been done on any other day.

98 Section 6. Section 142.09, Florida Statutes, is amended to
99 read:

100 142.09 If defendant is not convicted or dies.--If the
101 defendant is not convicted, or the prosecution is abated by the
102 death of the defendant, or if the costs are imposed on the
103 defendant and execution against him or her is returned no
104 property found, or if a nolle prosequere be entered, in each of
105 these cases the fees of witnesses and officers arising from

HB0111

2004
CS

106 criminal causes shall be paid by the county in the manner
 107 specified in ss. 142.10-142.12; provided, that when a committing
 108 trial court judge ~~magistrate~~ holds to bail or commits a person
 109 to answer to a criminal charge and an information is not filed
 110 or an indictment found against such person, the costs and fees
 111 of such committing trial shall not be paid by the county, except
 112 the costs of executing the warrants.

113 Section 7. Subsection (3) of section 316.635, Florida
 114 Statutes, is amended to read:

115 316.635 Courts having jurisdiction over traffic
 116 violations; powers relating to custody and detention of
 117 minors.--

118 (3) If a minor is taken into custody for a criminal
 119 traffic offense or a violation of chapter 322 and the minor does
 120 not demand to be taken before a trial court judge or a Civil
 121 Traffic Infraction Hearing Officer, who has jurisdiction over
 122 the offense or violation ~~magistrate~~, the arresting officer or
 123 booking officer shall immediately notify, or cause to be
 124 notified, the minor's parents, guardian, or responsible adult
 125 relative of the action taken. After making every reasonable
 126 effort to give notice, the arresting officer or booking officer
 127 may:

128 (a) Issue a notice to appear pursuant to chapter 901 and
 129 release the minor to a parent, guardian, responsible adult
 130 relative, or other responsible adult;

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

HB0111

2004
CS

133 (c) Issue a notice to appear pursuant to chapter 901 and
 134 deliver the minor to an appropriate substance abuse treatment or
 135 rehabilitation facility or refer the minor to an appropriate
 136 medical facility as provided in s. 901.29. If the minor cannot
 137 be delivered to an appropriate substance abuse treatment or
 138 rehabilitation facility or medical facility, the arresting
 139 officer may deliver the minor to an appropriate intake office of
 140 the Department of Juvenile Justice, which shall take custody of
 141 the minor and make any appropriate referrals; or

142 (d) If the violation constitutes a felony and the minor
 143 cannot be released pursuant to s. 903.03, transport and deliver
 144 the minor to an appropriate Department of Juvenile Justice
 145 intake office. Upon delivery of the minor to the intake office,
 146 the department shall assume custody and proceed pursuant to
 147 chapter 984 or chapter 985.

148
 149 If action is not taken pursuant to paragraphs (a)-(d), the minor
 150 shall be delivered to the Department of Juvenile Justice, and
 151 the department shall make every reasonable effort to contact the
 152 parents, guardian, or responsible adult relative to take custody
 153 of the minor. If there is no parent, guardian, or responsible
 154 adult relative available, the department may retain custody of
 155 the minor for up to 24 hours.

156 Section 8. Section 373.603, Florida Statutes, is amended
 157 to read:

158 373.603 Power to enforce.--The Department of Environmental
 159 Protection or the governing board of any water management
 160 district and any officer or agent thereof may enforce any

HB0111

2004
CS

161 provision of this law or any rule or regulation adopted and
 162 promulgated or order issued thereunder to the same extent as any
 163 peace officer is authorized to enforce the law. Any officer or
 164 agent of any such board may appear before any trial court judge
 165 ~~magistrate~~ empowered to issue warrants in criminal cases and
 166 make an affidavit and apply for the issuance of a warrant in the
 167 manner provided by law. ~~and said magistrate,~~ If such affidavit
 168 alleges ~~shall allege~~ the commission of an offense, the trial
 169 court judge shall issue a warrant directed to any sheriff or
 170 deputy for the arrest of any offender. The provisions of this
 171 section shall apply to the Florida Water Resources Act of 1972
 172 in its entirety.

173 Section 9. Subsection (4) of section 381.0012, Florida
 174 Statutes, is amended to read:

175 381.0012 Enforcement authority.--

176 (4) The department may appear before any trial court judge
 177 ~~magistrate~~ empowered to issue warrants in criminal cases and
 178 request the issuance of a warrant. The trial court judge
 179 ~~magistrate~~ shall issue a warrant directed to any sheriff,
 180 deputy, or police officer to assist in any way to carry out the
 181 purpose and intent of this chapter.

182 Section 10. Subsections (3) and (4) of section 450.121,
 183 Florida Statutes, are amended to read:

184 450.121 Enforcement of Child Labor Law.--

185 (3) It is the duty of any trial court judge ~~magistrate~~ of
 186 any court in the state to issue warrants and try cases made
 187 within the limit of any city over which such trial court judge

HB0111

2004
CS

188 ~~magistrate~~ has jurisdiction in connection with the violation of
189 this law.

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

195 Section 11. Subsection (2) of section 560.306, Florida
196 Statutes, is amended to read:

197 560.306 Standards.--

198 (2) The office may deny registration if it finds that the
199 applicant, or any money transmitter-affiliated party of the
200 applicant, has been convicted of a crime involving moral
201 turpitude in any jurisdiction or of a crime which, if committed
202 in this state, would constitute a crime involving moral
203 turpitude under the laws of this state. For the purposes of this
204 part, a person shall be deemed to have been convicted of a crime
205 if such person has either pleaded guilty to or been found guilty
206 of a charge before a court or a federal magistrate, or by the
207 verdict of a jury, irrespective of the pronouncement of sentence
208 or the suspension thereof. The office may take into
209 consideration the fact that such plea of guilty, or such
210 decision, judgment, or verdict, has been set aside, reversed, or
211 otherwise abrogated by lawful judicial process or that the
212 person convicted of the crime received a pardon from the
213 jurisdiction where the conviction was entered or received a
214 certificate pursuant to any provision of law which removes the
215 disability under this part because of such conviction.

HB0111

2004
CS

216 Section 12. Section 633.14, Florida Statutes, is amended
217 to read:

218 633.14 Agents; powers to make arrests, conduct searches
219 and seizures, serve summonses, and carry firearms.--Agents of
220 the State Fire Marshal shall have the same authority to serve
221 summonses, make arrests, carry firearms, and make searches and
222 seizures, as the sheriff or her or his deputies, in the
223 respective counties where such investigations, hearings, or
224 inspections may be held; and affidavits necessary to authorize
225 any such arrests, searches, or seizures may be made before any
226 trial court judge ~~magistrate~~ having authority under the law to
227 issue appropriate processes.

228 Section 13. Paragraph (e) of subsection (1) and paragraph
229 (c) of subsection (2) of section 648.44, Florida Statutes, are
230 amended to read:

231 648.44 Prohibitions; penalty.--

232 (1) A bail bond agent or temporary bail bond agent may
233 not:

234 (e) Pay a fee or rebate or give or promise anything of
235 value to a jailer, police officer, peace officer, or committing
236 trial court judge ~~magistrate~~ or any other person who has power
237 to arrest or to hold in custody or to any public official or
238 public employee in order to secure a settlement, compromise,
239 remission, or reduction of the amount of any bail bond or
240 estreatment thereof.

241 (2) The following persons or classes shall not be bail
242 bond agents, temporary bail bond agents, or employees of a bail
243 bond agent or a bail bond business and shall not directly or

HB0111

2004
CS

244 indirectly receive any benefits from the execution of any bail
245 bond:

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

248 Section 14. Subsection (3) of section 817.482, Florida
249 Statutes, is amended to read:

250 817.482 Possessing or transferring device for theft of
251 telecommunications service; concealment of destination of
252 telecommunications service.--

253 (3) Any such instrument, apparatus, equipment, or device,
254 or plans or instructions therefor, referred to in subsections
255 (1) and (2), may be seized by court order or under a search
256 warrant of a judge ~~or magistrate~~ or incident to a lawful arrest;
257 and upon the conviction of any person for a violation of any
258 provision of this act, or s. 817.481, such instrument,
259 apparatus, equipment, device, plans, or instructions either
260 shall be destroyed as contraband by the sheriff of the county in
261 which such person was convicted or turned over to the telephone
262 company in whose territory such instrument, apparatus,
263 equipment, device, plans, or instructions were seized.

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

266 832.05 Giving worthless checks, drafts, and debit card
267 orders; penalty; duty of drawee; evidence; costs; complaint
268 form.--

269 (8) COSTS.--When a prosecution is initiated under this
270 section before any committing trial court judge ~~magistrate~~, the
271 party applying for the warrant shall be held liable for costs

HB0111

2004
CS

272 accruing in the event the case is dismissed for want of
273 prosecution. No costs shall be charged to the county in such
274 dismissed cases.

275 Section 16. Section 876.42, Florida Statutes, is amended
276 to read:

277 876.42 Witnesses' privileges.--No person shall be excused
278 from attending and testifying, or producing any books, papers,
279 or other documents before any court, ~~magistrate,~~ referee, or
280 grand jury upon any investigation, proceeding, or trial, for or
281 relating to or concerned with a violation of any section of this
282 law or attempt to commit such violation, upon the ground or for
283 the reason that the testimony or evidence, documentary or
284 otherwise, required by the state may tend to convict the person
285 of a crime or to subject him or her to a penalty or forfeiture;
286 but no person shall be prosecuted or subjected to any penalty or
287 forfeiture for or on account of any transaction, matter, or
288 thing concerning which the person may so testify or produce
289 evidence, documentary or otherwise, and no testimony so given or
290 produced shall be received against the person, upon any criminal
291 investigation, proceeding, or trial, except upon a prosecution
292 for perjury or contempt of court, based upon the giving or
293 producing of such testimony.

294 Section 17. Paragraph (a) of subsection (1) of section
295 893.12, Florida Statutes, is amended to read:

296 893.12 Contraband; seizure, forfeiture, sale.--

297 (1) All substances controlled by this chapter and all
298 listed chemicals, which substances or chemicals are handled,
299 delivered, possessed, or distributed contrary to any provisions

HB0111

2004
CS

300 of this chapter, and all such controlled substances or listed
 301 chemicals the lawful possession of which is not established or
 302 the title to which cannot be ascertained, are declared to be
 303 contraband, are subject to seizure and confiscation by any
 304 person whose duty it is to enforce the provisions of the
 305 chapter, and shall be disposed of as follows:

306 (a) Except as in this section otherwise provided, the
 307 court having jurisdiction shall order such controlled substances
 308 or listed chemicals forfeited and destroyed. A record of the
 309 place where said controlled substances or listed chemicals were
 310 seized, of the kinds and quantities of controlled substances or
 311 listed chemicals destroyed, and of the time, place, and manner
 312 of destruction shall be kept, and a return under oath reporting
 313 said destruction shall be made to the court ~~or magistrate~~ by the
 314 officer who destroys them.

315 Section 18. Section 901.01, Florida Statutes, is amended
 316 to read:

317 901.01 Judicial officers have to be committing authority
 318 ~~magistrates~~.--Each state judicial officer is a conservator of
 319 the peace and has a committing ~~magistrate with~~ authority to
 320 issue warrants of arrest, commit offenders to jail, and
 321 recognize them to appear to answer the charge. He or she may
 322 require sureties of the peace when the peace has been
 323 substantially threatened or disturbed.

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

326 901.02 When warrant of arrest to be issued.--

HB0111

2004
CS

327 (1) A warrant may be issued for the arrest of the person
 328 complained against if the trial court judge ~~magistrate~~, from the
 329 examination of the complainant and other witnesses, reasonably
 330 believes that the person complained against has committed an
 331 offense within the trial court judge's ~~magistrate's~~
 332 jurisdiction. A warrant is issued at the time it is signed by
 333 the trial court judge ~~magistrate~~.

334 Section 20. Section 901.07, Florida Statutes, is amended
 335 to read:

336 901.07 Admission to bail when arrest occurs in another
 337 county.--

338 (1) When an arrest by a warrant occurs in a county other
 339 than the one in which the alleged offense was committed and the
 340 warrant issued, if the person arrested has a right to bail, the
 341 arresting officer shall inform the person of his or her right
 342 and, upon request, shall take the person before a trial court
 343 judge ~~magistrate~~ or other official of the same county having
 344 authority to admit to bail. The official shall admit the person
 345 arrested to bail for his or her appearance before the trial
 346 court judge ~~magistrate~~ who issued the warrant.

347 (2) If the person arrested does not have a right to bail
 348 or, when informed of his or her right to bail, does not furnish
 349 bail immediately, the officer who made the arrest or the officer
 350 having the warrant shall take the person before the trial court
 351 judge ~~magistrate~~ who issued the warrant.

352 Section 21. Section 901.08, Florida Statutes, is amended
 353 to read:

HB0111

2004
CS

354 901.08 Issue of warrant when offense triable in another
355 county.--

356 (1) When a complaint before a trial court judge ~~magistrate~~
357 charges the commission of an offense that is punishable by death
358 or life imprisonment and is triable in another county of the
359 state, but it appears that the person against whom the complaint
360 is made is in the county where the complaint is made, the same
361 proceedings for issuing a warrant shall be used as prescribed in
362 this chapter, except that the warrant shall require the person
363 against whom the complaint is made to be taken before a
364 designated trial court judge ~~magistrate~~ of the county in which
365 the offense is triable.

366 (2) If the person arrested has a right to bail, the
367 officer making the arrest shall inform the person of his or her
368 right to bail and, on request, shall take the person before a
369 trial court judge ~~magistrate~~ or other official having authority
370 to admit to bail in the county in which the arrest is made. The
371 official shall admit the person to bail for his or her
372 appearance before the trial court judge ~~magistrate~~ designated in
373 the warrant.

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

378 Section 22. Section 901.09, Florida Statutes, is amended
379 to read:

380 901.09 When summons shall be issued.--

HB0111

2004
CS

381 (1) When the complaint is for an offense that the trial
 382 court judge ~~magistrate~~ is empowered to try summarily, the trial
 383 court judge ~~magistrate~~ shall issue a summons instead of a
 384 warrant, unless she or he reasonably believes that the person
 385 against whom the complaint was made will not appear upon a
 386 summons, in which event the trial court judge ~~magistrate~~ shall
 387 issue a warrant.

388 (2) When the complaint is for a misdemeanor that the trial
 389 court judge ~~magistrate~~ is not empowered to try summarily, the
 390 trial court judge ~~magistrate~~ shall issue a summons instead of a
 391 warrant if she or he reasonably believes that the person against
 392 whom the complaint was made will appear upon a summons.

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

397 Section 23. Section 901.11, Florida Statutes, is amended
 398 to read:

399 901.11 Effect of not answering summons.--Failure to appear
 400 as commanded by a summons without good cause is an indirect
 401 criminal contempt of court and may be punished by a fine of not
 402 more than \$100. When a person fails to appear as commanded by a
 403 summons, the trial court judge ~~magistrate~~ shall issue a warrant.
 404 If the trial court judge ~~magistrate~~ acquires reason to believe
 405 that the person summoned will not appear as commanded after
 406 issuing a summons, the trial court judge ~~magistrate~~ may issue a
 407 warrant.

HB0111

2004
CS

408 Section 24. Section 901.12, Florida Statutes, is amended
409 to read:

410 901.12 Summons against corporation.--When a complaint of
411 an offense is made against a corporation, the trial court judge
412 ~~magistrate~~ shall issue a summons that shall set forth
413 substantially the nature of the offense and command the
414 corporation to appear before the trial court judge ~~magistrate~~ at
415 a stated time and place.

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

418 901.25 Fresh pursuit; arrest outside jurisdiction.--

419 (3) If an arrest is made in this state by an officer
420 outside the county within which his or her jurisdiction lies,
421 the officer shall immediately notify the officer in charge of
422 the jurisdiction in which the arrest is made. Such officer in
423 charge of the jurisdiction shall, along with the officer making
424 the arrest, take the person so arrested before a trial ~~county~~
425 ~~court judge or other committing magistrate~~ of the county in
426 which the arrest was made without unnecessary delay.

427 Section 26. Section 902.15, Florida Statutes, is amended
428 to read:

429 902.15 Undertaking by witness.--When a defendant is held
430 to answer on a charge for a crime punishable by death or life
431 imprisonment, the trial court judge ~~magistrate~~ at the
432 preliminary hearing may require each material witness to enter
433 into a written recognizance to appear at the trial or forfeit a
434 sum fixed by the trial court judge ~~magistrate~~. Additional

HB0111

2004
CS

435 security may be required in the discretion of the trial court
436 judge ~~magistrate~~.

437 Section 27. Subsections (1), (2), and (3) of section
438 902.17, Florida Statutes, are amended to read:

439 902.17 Procedure when witness does not give security.--

440 (1) If a witness required to enter into a recognizance to
441 appear refuses to comply with the order, the trial court judge
442 ~~magistrate~~ shall commit the witness to custody until she or he
443 complies or she or he is legally discharged.

444 (2) If the trial court judge ~~magistrate~~ requires a witness
445 to give security for her or his appearance and the witness is
446 unable to give the security, the witness may apply to the court
447 having jurisdiction to try the defendant for a reduction of the
448 security.

449 (3) If it appears from examination on oath of the witness
450 or any other person that the witness is unable to give security,
451 the trial court judge ~~magistrate~~ or the court having
452 jurisdiction to try the defendant shall make an order finding
453 that fact, and the witness shall be detained pending application
454 for her or his conditional examination. Within 3 days from the
455 entry of the order, the witness shall be conditionally examined
456 on application of the state or the defendant. The examination
457 shall be by question and answer in the presence of the other
458 party and counsel, and shall be transcribed by a court reporter
459 or stenographer selected by the parties. At the completion of
460 the examination the witness shall be discharged. The deposition
461 of the witness may be introduced in evidence at the trial by the
462 defendant, or, if the prosecuting attorney and the defendant and

HB0111

2004
CS

463 the defendant's counsel agree, it may be admitted in evidence by
464 stipulation. The deposition shall not be admitted on behalf of
465 the state without the consent of the defendant.

466 Section 28. Section 902.20, Florida Statutes, is amended
467 to read:

468 902.20 Contempts before committing trial court judge
469 ~~magistrate~~.--A committing trial court judge ~~magistrate~~ holding a
470 preliminary hearing shall have the same power to punish for
471 contempts that she or he has while presiding at the trial of
472 criminal cases.

473 Section 29. Section 902.21, Florida Statutes, is amended
474 to read:

475 902.21 Commitment to jail in another county.--If a person
476 is committed in a county where there is no jail, the committing
477 trial court judge ~~magistrate~~ shall direct the sheriff to deliver
478 the accused to a jail in another county.

479 Section 30. Subsection (1) of section 903.03, Florida
480 Statutes, is amended to read:

481 903.03 Jurisdiction of trial court to admit to bail;
482 duties and responsibilities of Department of Corrections.--

483 (1) After a person is held to answer by a trial court
484 judge ~~magistrate~~, the court having jurisdiction to try the
485 defendant shall, before indictment, affidavit, or information is
486 filed, have jurisdiction to hear and decide all preliminary
487 motions regarding bail and production or impounding of all
488 articles, writings, moneys, or other exhibits expected to be
489 used at the trial by either the state or the defendant.

HB0111

2004
CS

490 Section 31. Subsection (2) of section 903.32, Florida
491 Statutes, is amended to read:

492 903.32 Defects in bond.--

493 (2) If no day, or an impossible day, is stated in a bond
494 for the defendant's appearance before a trial court judge
495 ~~magistrate~~ for a hearing, the defendant shall be bound to appear
496 10 days after receipt of notice to appear by the defendant, the
497 defendant's counsel, or any surety on the undertaking. If no
498 day, or an impossible day, is stated in a bond for the
499 defendant's appearance for trial, the defendant shall be bound
500 to appear on the first day of the next term of court that will
501 commence more than 3 days after the undertaking is given.

502 Section 32. Section 903.34, Florida Statutes, is amended
503 to read:

504 903.34 Who may admit to bail.--In criminal actions
505 instituted or pending in any state court, bonds given by
506 defendants before trial until appeal shall be approved by a
507 committing trial court judge ~~magistrate~~ or the sheriff. Appeal
508 bonds shall be approved as provided in s. 924.15.

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

511 914.22 Tampering with a witness, victim, or informant.--

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

514 (a) That the official proceeding before a judge, court,
515 ~~magistrate~~, grand jury, or government agency is before a judge
516 or court of the state, a state or local grand jury, or a state
517 agency; or

HB0111

2004
CS

518 (b) That the judge is a judge of the state or that the law
519 enforcement officer is an officer or employee of the state or a
520 person authorized to act for or on behalf of the state or
521 serving the state as an adviser or consultant.

522 Section 34. Section 923.01, Florida Statutes, is amended
523 to read:

524 923.01 Criminal report.--Each committing trial court judge
525 ~~magistrate~~ at the time commitment papers are sent by her or him
526 to the proper trial court, and the sheriff when an arrest is
527 made, other than on a capias, shall transmit to the prosecuting
528 attorney of the trial court having jurisdiction, a report in the
529 following form:

530 CRIMINAL REPORT

531 Date: ____ Name and address of defendant: ____ Age: ____ . If
532 under 18, give name and address of parent, next friend, or
533 guardian: ____ Name of offense, such as murder, assault,
534 robbery, etc.: ____ Date and place where committed: ____ Value
535 of property stolen: ____ Kind of property stolen: ____ Kind of
536 building robbed: ____ Name and address of owner of property
537 stolen or building robbed: ____ Name and address of occupant of
538 building robbed: ____ Name of party assaulted or murdered: ____
539 Weapon used in assault or murder: ____ Exhibits taken at scene
540 of crime or from defendant: ____ Name of custodian of such
541 exhibits: ____ Location of building or place where offense
542 committed: ____ Previous prison record of defendant: ____ Has
543 defendant been arrested: ____ Does defendant desire to plead
544 guilty: ____ Names and addresses of state witnesses: ____ Name
545 of defendant's lawyer: ____ If defendant is released on bond,

HB0111

2004
CS

546 names and addresses of sureties: _____ Brief statement of facts:
547 _____ Name of committing trial court judge ~~magistrate~~: _____ If
548 additional space required, use reverse side of this sheet.

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

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

552 933.01 Persons competent to issue search warrant.--A
553 search warrant authorized by law may be issued by any judge,
554 including the ~~judge of any circuit court of this state or county~~
555 ~~court judge, or~~ committing judge of the trial court ~~magistrate~~
556 having jurisdiction where the place, vehicle, or thing to be
557 searched may be.

558 Section 36. Section 933.06, Florida Statutes, is amended
559 to read:

560 933.06 Sworn application required before issuance.--The
561 judge ~~or magistrate~~ must, before issuing the warrant, have the
562 application of some person for said warrant duly sworn to and
563 subscribed, and may receive further testimony from witnesses or
564 supporting affidavits, or depositions in writing, to support the
565 application. The affidavit and further proof, if same be had or
566 required, must set forth the facts tending to establish the
567 grounds of the application or probable cause for believing that
568 they exist.

569 Section 37. Subsection (1) of section 933.07, Florida
570 Statutes, is amended to read:

571 933.07 Issuance of search warrants.--

572 (1) The judge, upon examination of the application and
573 proofs submitted, if satisfied that probable cause exists for

HB0111

2004
CS

574 the issuing of the search warrant, shall thereupon issue a
 575 search warrant signed by him or her with his or her name of
 576 office, to any sheriff and the sheriff's deputies or any police
 577 officer or other person authorized by law to execute process,
 578 commanding the officer or person forthwith to search the
 579 property described in the warrant or the person named, for the
 580 property specified, and to bring the property and any person
 581 arrested in connection therewith before the judge ~~magistrate~~ or
 582 some other court having jurisdiction of the offense.

583 Section 38. Section 933.10, Florida Statutes, is amended
 584 to read:

585 933.10 Execution of search warrant during day or night.--A
 586 search warrant issued under ~~the provisions of~~ this chapter may,
 587 if expressly authorized in such warrant by the judge ~~or~~
 588 ~~magistrate issuing the same~~, be executed by being served either
 589 in the daytime or in the nighttime, as the exigencies of the
 590 occasion may demand or require.

591 Section 39. Section 933.101, Florida Statutes, is amended
 592 to read:

593 933.101 Service on Sunday.--A search warrant may be
 594 executed by being served on Sunday, if expressly authorized in
 595 such warrant by the judge ~~or magistrate issuing the same~~.

596 Section 40. Section 933.13, Florida Statutes, is amended
 597 to read:

598 933.13 Copy of inventory shall be delivered upon
 599 request.--The judge ~~or magistrate~~ to whom the warrant is
 600 returned, upon the request of any claimant or any person from
 601 whom said property is taken, or the officer who executed the

HB0111

2004
CS

602 search warrant, shall deliver to said applicant a true copy of
603 the inventory of the property mentioned in the return on said
604 warrant.

605 Section 41. Subsections (1), (3), and (4) of section
606 933.14, Florida Statutes, are amended to read:

607 933.14 Return of property taken under search warrant.--

608 (1) If it appears to the ~~magistrate~~ or judge before whom
609 the warrant is returned that the property or papers taken are
610 not the same as that described in the warrant, or that there is
611 no probable cause for believing the existence of the grounds
612 upon which the warrant was issued, or if it appears to the judge
613 ~~magistrate~~ before whom any property is returned that the
614 property was secured by an "unreasonable" search, the judge ~~or~~
615 ~~magistrate~~ may order a return of the property taken; provided,
616 however, that in no instance shall contraband such as slot
617 machines, gambling tables, lottery tickets, tally sheets,
618 rundown sheets, or other gambling devices, paraphernalia and
619 equipment, or narcotic drugs, obscene prints and literature be
620 returned to anyone claiming an interest therein, it being the
621 specific intent of the Legislature that no one has any property
622 rights subject to be protected by any constitutional provision
623 in such contraband; provided, further, that the claimant of said
624 contraband may upon sworn petition and proof submitted by him or
625 her in the circuit court of the county where seized, show that
626 said contraband articles so seized were held, used or possessed
627 in a lawful manner, for a lawful purpose, and in a lawful place,
628 the burden of proof in all cases being upon the claimant. The
629 sworn affidavit or complaint upon which the search warrant was

HB0111

2004
CS

630 issued or the testimony of the officers showing probable cause
 631 to search without a warrant or incident to a legal arrest, and
 632 the finding of such slot machines, gambling tables, lottery
 633 tickets, tally sheets, rundown sheets, scratch sheets, or other
 634 gambling devices, paraphernalia, and equipment, including money
 635 used in gambling or in furtherance of gambling, or narcotic
 636 drugs, obscene prints and literature, or any of them, shall
 637 constitute prima facie evidence of the illegal possession of
 638 such contraband and the burden shall be upon the claimant for
 639 the return thereof, to show that such contraband was lawfully
 640 acquired, possessed, held, and used.

641 (3) No pistol or firearm taken by any officer with a
 642 search warrant or without a search warrant upon a view by the
 643 officer of a breach of the peace shall be returned except
 644 pursuant to an order of a trial ~~circuit judge or a county court~~
 645 judge.

646 (4) If no cause is shown for the return of any property
 647 seized or taken under a search warrant, the judge ~~or magistrate~~
 648 shall order that the same be impounded for use as evidence at
 649 any trial of any criminal or penal cause growing out of the
 650 having or possession of said property, but perishable property
 651 held or possessed in violation of law may be sold where the same
 652 is not prohibited, as may be directed by the court, or returned
 653 to the person from whom taken. The judge ~~or magistrate~~ to whom
 654 said search warrant is returned shall file the same with the
 655 inventory and sworn return in the proper office, and if the
 656 original affidavit and proofs upon which the warrant was issued
 657 are in his or her possession, he or she shall apply to the

HB0111

2004
CS

658 officer having the same and the officer shall transmit and
659 deliver all of the papers, proofs, and certificates to the
660 proper office where the proceedings are lodged.

661 Section 42. Section 939.02, Florida Statutes, is amended
662 to read:

663 939.02 Costs before committing trial court judge
664 ~~magistrate~~.--All costs accruing before a committing trial court
665 judge ~~magistrate~~ shall be taxed against the defendant on
666 conviction or estreat of recognizance.

667 Section 43. Section 939.14, Florida Statutes, is amended
668 to read:

669 939.14 County not to pay costs in cases where information
670 is not filed or indictment found.--When a committing trial court
671 judge ~~magistrate~~ holds to bail or commits any person to answer a
672 criminal charge in a county court or a circuit court, and an
673 information is not filed nor an indictment found against such
674 person, the costs of such committing trial shall not be paid by
675 the county, except the costs for executing the warrant.

676 Section 44. Section 941.13, Florida Statutes, is amended
677 to read:

678 941.13 Arrest prior to requisition.--Whenever any person
679 within this state shall be charged on the oath of any credible
680 person before any judge ~~or magistrate~~ of this state with the
681 commission of any crime in any other state, and, except in cases
682 arising under s. 941.06, with having fled from justice or with
683 having been convicted of a crime in that state and having
684 escaped from confinement, or having broken the terms of his or
685 her bail, probation, or parole, or whenever complaint shall have

HB0111

2004
CS

686 | been made before any judge ~~or magistrate~~ in this state setting
 687 | forth on the affidavit of any credible person in another state
 688 | that a crime has been committed in such other state and that the
 689 | accused has been charged in such state with the commission of
 690 | the crime, and, except in cases arising under s. 941.06, has
 691 | fled from justice, or with having been convicted of a crime in
 692 | that state and having escaped from confinement, or having broken
 693 | the terms of his or her bail, probation, or parole, and is
 694 | believed to be in this state, the judge ~~or magistrate~~ shall
 695 | issue a warrant directed to any peace officer commanding him or
 696 | her to apprehend the person named therein, wherever the person
 697 | may be found in this state, and to bring the person before the
 698 | same or any other judge, ~~magistrate,~~ or court who or which may
 699 | be available in, or convenient of, access to the place where the
 700 | arrest may be made, to answer the charge or complaint and
 701 | affidavit, and a certified copy of the sworn charge or complaint
 702 | and affidavit upon which the warrant is issued shall be attached
 703 | to the warrant.

704 | Section 45. Section 941.14, Florida Statutes, is amended
 705 | to read:

706 | 941.14 Arrest without a warrant.--The arrest of a person
 707 | may be lawfully made also by any peace officer or a private
 708 | person, without a warrant upon reasonable information that the
 709 | accused stands charged in the courts of a state with a crime
 710 | punishable by death or imprisonment for a term exceeding 1 year,
 711 | but when so arrested the accused must be taken before a judge ~~or~~
 712 | ~~magistrate~~ with all practicable speed and complaint must be made
 713 | against the accused under oath setting forth the ground for the

HB0111

2004
CS

714 arrest as in the preceding section; and thereafter his or her
715 answer shall be heard as if the accused had been arrested on a
716 warrant.

717 Section 46. Section 941.15, Florida Statutes, is amended
718 to read:

719 941.15 Commitment to await requisition; bail.--If from the
720 examination before the judge ~~or magistrate~~ it appears that the
721 person held is the person charged with having committed the
722 crime alleged and, except in cases arising under s. 941.06, that
723 the person has fled from justice, the judge ~~or magistrate~~ must,
724 by a warrant reciting the accusation, commit the person to the
725 county jail for such a time not exceeding 30 days and specified
726 in the warrant, ~~as will enable the arrest of the accused to be~~
727 made under a warrant of the Governor on a requisition of the
728 executive authority of the state having jurisdiction of the
729 offense, unless the accused gives ~~give~~ bail as provided in s.
730 941.16 ~~the next section~~, or until the accused shall be legally
731 discharged.

732 Section 47. Section 941.17, Florida Statutes, is amended
733 to read:

734 941.17 Extension of time of commitment, adjournment.--If
735 the accused is not arrested under warrant of the Governor by the
736 expiration of the time specified in the warrant or bond, a judge
737 ~~or magistrate~~ may discharge the accused or may recommit him or
738 her for a further period not to exceed 60 days, or a judge ~~or~~
739 ~~magistrate judge~~ may again take bail for his or her appearance
740 and surrender, as provided in s. 941.16, but within a period not
741 to exceed 60 days after the date of such new bond.

HB0111

2004
CS

742 Section 48. Section 941.18, Florida Statutes, is amended
743 to read:

744 941.18 Forfeiture of bail.--If the prisoner is admitted to
745 bail, and fails to appear and surrender himself or herself
746 according to the conditions of his or her bond, the judge,~~or~~
747 ~~magistrate by proper order,~~ shall declare the bond forfeited and
748 order his or her immediate arrest without warrant if he or she
749 is ~~be~~ within this state. Recovery may be had on such bond in the
750 name of the state as in the case of other bonds given by the
751 accused in criminal proceedings within this state.

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

754 947.141 Violations of conditional release, control
755 release, or conditional medical release or addiction-recovery
756 supervision.--

757 (2) Upon the arrest on a felony charge of an offender who
758 is on release supervision under s. 947.1405, s. 947.146, s.
759 947.149, or s. 944.4731, the offender must be detained without
760 bond until the initial appearance of the offender at which a
761 judicial determination of probable cause is made. If the trial
762 court judge ~~magistrate~~ determines that there was no probable
763 cause for the arrest, the offender may be released. If the trial
764 court judge ~~magistrate~~ determines that there was probable cause
765 for the arrest, such determination also constitutes reasonable
766 grounds to believe that the offender violated the conditions of
767 the release. Within 24 hours after the trial court judge's
768 ~~magistrate's~~ finding of probable cause, the detention facility
769 administrator or designee shall notify the commission and the

HB0111

2004
CS

770 department of the finding and transmit to each a facsimile copy
 771 of the probable cause affidavit or the sworn offense report upon
 772 which the trial court judge's ~~magistrate's~~ probable cause
 773 determination is based. The offender must continue to be
 774 detained without bond for a period not exceeding 72 hours
 775 excluding weekends and holidays after the date of the probable
 776 cause determination, pending a decision by the commission
 777 whether to issue a warrant charging the offender with violation
 778 of the conditions of release. Upon the issuance of the
 779 commission's warrant, the offender must continue to be held in
 780 custody pending a revocation hearing held in accordance with
 781 this section.

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

784 948.06 Violation of probation or community control;
 785 revocation; modification; continuance; failure to pay
 786 restitution or cost of supervision.--

787 (1) Whenever within the period of probation or community
 788 control there are reasonable grounds to believe that a
 789 probationer or offender in community control has violated his or
 790 her probation or community control in a material respect, any
 791 law enforcement officer who is aware of the probationary or
 792 community control status of the probationer or offender in
 793 community control or any parole or probation supervisor may
 794 arrest or request any county or municipal law enforcement
 795 officer to arrest such probationer or offender without warrant
 796 wherever found and forthwith return him or her to the court
 797 granting such probation or community control. Any committing

HB0111

2004
CS

798 trial court judge ~~magistrate~~ may issue a warrant, upon the facts
799 being made known to him or her by affidavit of one having
800 knowledge of such facts, for the arrest of the probationer or
801 offender, returnable forthwith before the court granting such
802 probation or community control. Any parole or probation
803 supervisor, any officer authorized to serve criminal process, or
804 any peace officer of this state is authorized to serve and
805 execute such warrant. Upon the filing of an affidavit alleging a
806 violation of probation or community control and following
807 issuance of a warrant under s. 901.02, the probationary period
808 is tolled until the court enters a ruling on the violation.
809 Notwithstanding the tolling of probation as provided in this
810 subsection, the court shall retain jurisdiction over the
811 offender for any violation of the conditions of probation or
812 community control that is alleged to have occurred during the
813 tolling period. The probation officer is permitted to continue
814 to supervise any offender who remains available to the officer
815 for supervision until the supervision expires pursuant to the
816 order of probation or community control or until the court
817 revokes or terminates the probation or community control,
818 whichever comes first. The court, upon the probationer or
819 offender being brought before it, shall advise him or her of
820 such charge of violation and, if such charge is admitted to be
821 true, may forthwith revoke, modify, or continue the probation or
822 community control or place the probationer into a community
823 control program. If probation or community control is revoked,
824 the court shall adjudge the probationer or offender guilty of
825 the offense charged and proven or admitted, unless he or she has

HB0111

2004
CS

826 | previously been adjudged guilty, and impose any sentence which
827 | it might have originally imposed before placing the probationer
828 | on probation or the offender into community control. If such
829 | violation of probation or community control is not admitted by
830 | the probationer or offender, the court may commit him or her or
831 | release him or her with or without bail to await further
832 | hearing, or it may dismiss the charge of probation or community
833 | control violation. If such charge is not at that time admitted
834 | by the probationer or offender and if it is not dismissed, the
835 | court, as soon as may be practicable, shall give the probationer
836 | or offender an opportunity to be fully heard on his or her
837 | behalf in person or by counsel. After such hearing, the court
838 | may revoke, modify, or continue the probation or community
839 | control or place the probationer into community control. If such
840 | probation or community control is revoked, the court shall
841 | adjudge the probationer or offender guilty of the offense
842 | charged and proven or admitted, unless he or she has previously
843 | been adjudged guilty, and impose any sentence which it might
844 | have originally imposed before placing the probationer or
845 | offender on probation or into community control. Notwithstanding
846 | s. 775.082, when a period of probation or community control has
847 | been tolled, upon revocation or modification of the probation or
848 | community control, the court may impose a sanction with a term
849 | that when combined with the amount of supervision served and
850 | tolled, exceeds the term permissible pursuant to s. 775.082 for
851 | a term up to the amount of the tolled period supervision. If the
852 | court dismisses an affidavit alleging a violation of probation
853 | or community control, the offender's probation or community

HB0111

2004
CS

854 control shall continue as previously imposed, and the offender
855 shall receive credit for all tolled time against his or her term
856 of probation or community control.

857 Section 51. Paragraph (b) of subsection (4) of section
858 985.05, Florida Statutes, is amended to read:

859 985.05 Court records.--

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

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

867 Section 52. Section 56.071, Florida Statutes, is amended
868 to read:

869 56.071 Executions on equities of redemption; discovery of
870 value.--On motion made by the party causing a levy to be made on
871 an equity of redemption, the court from which the execution
872 issued shall order the mortgagor, mortgagee, and all other
873 persons interested in the mortgaged property levied on to appear
874 and be examined about the amount remaining due on the mortgage,
875 the amount that has been paid, the party to whom that amount has
876 been paid, and the date when that amount was paid ~~to whom and~~
877 ~~when paid~~ so that the value of the equity of redemption may be
878 ascertained before the property ~~it~~ is sold. The court may
879 appoint a general or special magistrate ~~master~~ to conduct the
880 examination. This section shall also apply to the interest of

HB0111

2004
CS

881 and personal property in possession of a vendee under a retained
882 title contract or conditional sales contract.

883 Section 53. Subsections (2), (7), and (10) of section
884 56.29, Florida Statutes, are amended to read:

885 56.29 Proceedings supplementary.--

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

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

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

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

903 61.1826 Procurement of services for State Disbursement
904 Unit and the non-Title IV-D component of the State Case
905 Registry; contracts and cooperative agreements; penalties;
906 withholding payment.--

907 (4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.--The
908 contract between the Florida Association of Court Clerks and the

HB0111

2004
CS

909 department, and cooperative agreements entered into by the
910 depositories and the department, must contain, but are not
911 limited to, the following terms:

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

917 (b) The duties and responsibilities of the Florida
918 Association of Court Clerks, the depositories, and the
919 department.

920 (c) Under s. 287.058(1)(a), all providers and
921 subcontractors shall submit to the department directly, or
922 through the Florida Association of Court Clerks, a report of
923 monthly expenditures in a format prescribed by the department
924 and in sufficient detail for a proper preaudit and postaudit
925 thereof.

926 (d) All providers and subcontractors shall submit to the
927 department directly, or through the Florida Association of Court
928 Clerks, management reports in a format prescribed by the
929 department.

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

932 (f) Federal financial participation for eligible Title IV-
933 D expenditures incurred by the Florida Association of Court
934 Clerks and the depositories shall be at the maximum level
935 permitted by federal law for expenditures incurred for the
936 provision of services in support of child support enforcement in

HB0111

2004
CS

937 | accordance with 45 C.F.R. part 74 and Federal Office of
 938 | Management and Budget Circulars A-87 and A-122 and based on an
 939 | annual cost allocation study of each depository. The
 940 | depositories shall submit directly, or through the Florida
 941 | Association of Court Clerks, claims for Title IV-D expenditures
 942 | monthly to the department in a standardized format as prescribed
 943 | by the department. The Florida Association of Court Clerks shall
 944 | contract with a certified public accounting firm, selected by
 945 | the Florida Association of Court Clerks and the department, to
 946 | audit and certify quarterly to the department all claims for
 947 | expenditures submitted by the depositories for Title IV-D
 948 | reimbursement.

949 | (g) Upon termination of the contracts between the
 950 | department and the Florida Association of Court Clerks or the
 951 | depositories, the Florida Association of Court Clerks, its
 952 | agents, and the depositories shall assist the department in
 953 | making an orderly transition to a private vendor.

954 | (h) Interest on late payment by the department shall be in
 955 | accordance with s. 215.422.

956 |
 957 | If either the department or the Florida Association of Court
 958 | Clerks objects to a term of the standard cooperative agreement
 959 | or contract specified in subsections (2) and (3), the disputed
 960 | term or terms shall be presented jointly by the parties to the
 961 | Attorney General or the Attorney General's designee, who shall
 962 | act as special magistrate ~~master~~. The special magistrate ~~master~~
 963 | shall resolve the dispute in writing within 10 days. The
 964 | resolution of a dispute by the special magistrate ~~master~~ is

HB0111

2004
CS

965 binding on the department and the Florida Association of Court
966 Clerks.

967 Section 55. Section 64.061, Florida Statutes, is amended
968 to read:

969 64.061 Partition of property; commissioners; special
970 magistrate ~~master~~.--

971 (1) APPOINTMENT AND REMOVAL.--When a judgment of partition
972 is made, the court shall appoint three suitable persons as
973 commissioners to make the partition. They shall be selected by
974 the court unless agreed on by the parties. They may be removed
975 by the court for good cause and others appointed in their
976 places.

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

985 (3) EXCEPTIONS TO REPORT AND FINAL JUDGMENT.--Any party
986 may file objections to the report of the commissioners within 10
987 days after it is served. If no objections are filed or if the
988 court is satisfied on hearing any such objections that they are
989 not well-founded, the report shall be confirmed, and a final
990 judgment entered vesting in the parties the title to the parcels
991 of the lands allotted to them respectively, and giving each of
992 them the possession of and quieting title to their respective

HB0111

2004
CS

993 shares as against the other parties to the action or those
994 claiming through or under them.

995 (4) APPOINTMENT OF SPECIAL MAGISTRATE ~~MASTER~~ WHERE
996 PROPERTY NOT SUBJECT TO PARTITION.--On an uncontested allegation
997 in a pleading that the property sought to be partitioned is
998 indivisible and is not subject to partition without prejudice to
999 the owners of it or if a judgment of partition is entered and
1000 the court is satisfied that the allegation is correct, on motion
1001 of any party and notice to the others the court may appoint a
1002 special magistrate ~~master~~ or the clerk to make sale of the
1003 property either at private sale or as provided by s. 64.071.

1004 Section 56. Subsection (5) of section 65.061, Florida
1005 Statutes, is amended to read:

1006 65.061 Quieting title; additional remedy.--

1007 (5) RECORDING FINAL JUDGMENTS.--All final judgments may be
1008 recorded in the county or counties in which the land is situated
1009 and operate to vest title in like manner as though a conveyance
1010 were executed by a special magistrate ~~master~~ or commissioner.

1011 Section 57. Section 69.051, Florida Statutes, is amended
1012 to read:

1013 69.051 General and special magistrates ~~Masters in~~
1014 ~~chancery~~; compensation.--General and special magistrates
1015 appointed by the court ~~Masters in chancery~~ shall be allowed such
1016 compensation for any services as the court deems reasonable,
1017 including time consumed in legal research required in preparing
1018 and summarizing their findings of fact and law.

1019 Section 58. Section 70.51, Florida Statutes, is amended to
1020 read:

HB0111

2004
CS

1021 70.51 Land use and environmental dispute resolution.--
 1022 (1) This section may be cited as the "Florida Land Use and
 1023 Environmental Dispute Resolution Act."
 1024 (2) As used in this section, the term:
 1025 (a) "Development order" means any order, or notice of
 1026 proposed state or regional governmental agency action, which is
 1027 or will have the effect of granting, denying, or granting with
 1028 conditions an application for a development permit, and includes
 1029 the rezoning of a specific parcel. Actions by the state or a
 1030 local government on comprehensive plan amendments are not
 1031 development orders.
 1032 (b) "Development permit" means any building permit, zoning
 1033 permit, subdivision approval, certification, special exception,
 1034 variance, or any other similar action of local government, as
 1035 well as any permit authorized to be issued under state law by
 1036 state, regional, or local government which has the effect of
 1037 authorizing the development of real property including, but not
 1038 limited to, programs implementing chapters 125, 161, 163, 166,
 1039 187, 258, 372, 373, 378, 380, and 403.
 1040 (c) "Special magistrate ~~master~~" means a person selected by
 1041 the parties to perform the duties prescribed in this section.
 1042 The special magistrate ~~master~~ must be a resident of the state
 1043 and possess experience and expertise in mediation and at least
 1044 one of the following disciplines and a working familiarity with
 1045 the others: land use and environmental permitting, land
 1046 planning, land economics, local and state government
 1047 organization and powers, and the law governing the same.

HB0111

2004
CS

1048 (d) "Owner" means a person with a legal or equitable
1049 interest in real property who filed an application for a
1050 development permit for the property at the state, regional, or
1051 local level and who received a development order, or who holds
1052 legal title to real property that is subject to an enforcement
1053 action of a governmental entity.

1054 (e) "Proposed use of the property" means the proposal
1055 filed by the owner to develop his or her real property.

1056 (f) "Governmental entity" includes an agency of the state,
1057 a regional or a local government created by the State
1058 Constitution or by general or special act, any county or
1059 municipality, or any other entity that independently exercises
1060 governmental authority. The term does not include the United
1061 States or any of its agencies.

1062 (g) "Land" or "real property" means land and includes any
1063 appurtenances and improvements to the land, including any other
1064 relevant real property in which the owner had a relevant
1065 interest.

1066 (3) Any owner who believes that a development order,
1067 either separately or in conjunction with other development
1068 orders, or an enforcement action of a governmental entity, is
1069 unreasonable or unfairly burdens the use of the owner's real
1070 property, may apply within 30 days after receipt of the order or
1071 notice of the governmental action for relief under this section.

1072 (4) To initiate a proceeding under this section, an owner
1073 must file a request for relief with the elected or appointed
1074 head of the governmental entity that issued the development
1075 order or orders, or that initiated the enforcement action. The

HB0111

2004
CS

1076 head of the governmental entity may not charge the owner for the
 1077 request for relief and must forward the request for relief to
 1078 the special magistrate ~~master~~ who is mutually agreed upon by the
 1079 owner and the governmental entity within 10 days after receipt
 1080 of the request.

1081 (5) The governmental entity with whom a request has been
 1082 filed shall also serve a copy of the request for relief by
 1083 United States mail or by hand delivery to:

1084 (a) Owners of real property contiguous to the owner's
 1085 property at the address on the latest county tax roll.

1086 (b) Any substantially affected party who submitted oral or
 1087 written testimony, sworn or unsworn, of a substantive nature
 1088 which stated with particularity objections to or support for any
 1089 development order at issue or enforcement action at issue.
 1090 Notice under this paragraph is required only if that party
 1091 indicated a desire to receive notice of any subsequent special
 1092 magistrate ~~master~~ proceedings occurring on the development order
 1093 or enforcement action. Each governmental entity must maintain in
 1094 its files relating to particular development orders a mailing
 1095 list of persons who have presented oral or written testimony and
 1096 who have requested notice.

1097 (6) The request for relief must contain:

1098 (a) A brief statement of the owner's proposed use of the
 1099 property.

1100 (b) A summary of the development order or description of
 1101 the enforcement action. A copy of the development order or the
 1102 documentation of an enforcement action at issue must be attached
 1103 to the request.

HB0111

2004
CS

1104 (c) A brief statement of the impact of the development
1105 order or enforcement action on the ability of the owner to
1106 achieve the proposed use of the property.

1107 (d) A certificate of service showing the parties,
1108 including the governmental entity, served.

1109 (7) The special magistrate ~~master~~ may require other
1110 information in the interest of gaining a complete understanding
1111 of the request for relief.

1112 (8) The special magistrate ~~master~~ may conduct a hearing on
1113 whether the request for relief should be dismissed for failing
1114 to include the information required in subsection (6). If the
1115 special magistrate ~~master~~ dismisses the case, the special
1116 magistrate ~~master~~ shall allow the owner to amend the request and
1117 refile. Failure to file an adequate amended request within the
1118 time specified shall result in a dismissal with prejudice as to
1119 this proceeding.

1120 (9) By requesting relief under this section, the owner
1121 consents to grant the special magistrate ~~master~~ and the parties
1122 reasonable access to the real property with advance notice at a
1123 time and in a manner acceptable to the owner of the real
1124 property.

1125 (10)(a) Before initiating a special magistrate ~~master~~
1126 proceeding to review a local development order or local
1127 enforcement action, the owner must exhaust all nonjudicial local
1128 government administrative appeals if the appeals take no longer
1129 than 4 months. Once nonjudicial local administrative appeals
1130 are exhausted and the development order or enforcement action is
1131 final, or within 4 months after issuance of the development

HB0111

2004
CS

1132 order or notice of the enforcement action if the owner has
 1133 pursued local administrative appeals even if the appeals have
 1134 not been concluded, the owner may initiate a proceeding under
 1135 this section. Initiation of a proceeding tolls the time for
 1136 seeking judicial review of a local government development order
 1137 or enforcement action until the special magistrate's ~~master's~~
 1138 recommendation is acted upon by the local government. Election
 1139 by the owner to file for judicial review of a local government
 1140 development order or enforcement action prior to initiating a
 1141 proceeding under this section waives any right to a special
 1142 magistrate ~~master~~ proceeding.

1143 (b) If an owner requests special magistrate ~~master~~ relief
 1144 from a development order or enforcement action issued by a state
 1145 or regional agency, the time for challenging agency action under
 1146 ss. 120.569 and 120.57 is tolled. If an owner chooses to bring a
 1147 proceeding under ss. 120.569 and 120.57 before initiating a
 1148 special magistrate ~~master~~ proceeding, then the owner waives any
 1149 right to a special magistrate ~~master~~ proceeding unless all
 1150 parties consent to proceeding to mediation.

1151 (11) The initial party to the proceeding is the
 1152 governmental entity that issues the development order to the
 1153 owner or that is taking the enforcement action. In those
 1154 instances when the development order or enforcement action is
 1155 the culmination of a process involving more than one
 1156 governmental entity or when a complete resolution of all
 1157 relevant issues would require the active participation of more
 1158 than one governmental entity, the special magistrate ~~master~~ may,
 1159 upon application of a party, join those governmental entities as

HB0111

2004
CS

1160 parties to the proceeding if it will assist in effecting the
 1161 purposes of this section, and those governmental entities so
 1162 joined shall actively participate in the procedure.

1163 (12) Within 21 days after receipt of the request for
 1164 relief, any owner of land contiguous to the owner's property and
 1165 any substantially affected person who submitted oral or written
 1166 testimony, sworn or unsworn, of a substantive nature which
 1167 stated with particularity objections to or support for the
 1168 development order or enforcement action at issue may request to
 1169 participate in the proceeding. Those persons may be permitted to
 1170 participate in the hearing but shall not be granted party or
 1171 intervenor status. The participation of such persons is limited
 1172 to addressing issues raised regarding alternatives, variances,
 1173 and other types of adjustment to the development order or
 1174 enforcement action which may impact their substantial interests,
 1175 including denial of the development order or application of an
 1176 enforcement action.

1177 (13) Each party must make efforts to assure that those
 1178 persons qualified by training or experience necessary to address
 1179 issues raised by the request or by the special magistrate ~~master~~
 1180 and further qualified to address alternatives, variances, and
 1181 other types of modifications to the development order or
 1182 enforcement action are present at the hearing.

1183 (14) The special magistrate ~~master~~ may subpoena any
 1184 nonparty witnesses in the state whom the special magistrate
 1185 ~~master~~ believes will aid in the disposition of the matter.

1186 (15)(a) The special magistrate ~~master~~ shall hold a hearing
 1187 within 45 days after his or her receipt of the request for

HB0111

2004
CS

1188 relief unless a different date is agreed to by all the parties.
1189 The hearing must be held in the county in which the property is
1190 located.

1191 (b) The special magistrate ~~master~~ must provide notice of
1192 the place, date, and time of the hearing to all parties and any
1193 other persons who have requested such notice at least 40 days
1194 prior to the hearing.

1195 (16)(a) Fifteen days following the filing of a request for
1196 relief, the governmental entity that issued the development
1197 order or that is taking the enforcement action shall file a
1198 response to the request for relief with the special magistrate
1199 ~~master~~ together with a copy to the owner. The response must set
1200 forth in reasonable detail the position of the governmental
1201 entity regarding the matters alleged by the owner. The response
1202 must include a brief statement explaining the public purpose of
1203 the regulations on which the development order or enforcement
1204 action is based.

1205 (b) Any governmental entity that is added by the special
1206 magistrate ~~master~~ as a party must file a response to the request
1207 for relief prior to the hearing but not later than 15 days
1208 following its admission.

1209 (c) Any party may incorporate in the response to the
1210 request for relief a request to be dropped from the proceeding.
1211 The request to be dropped must set forth facts and circumstances
1212 relevant to aid the special magistrate ~~master~~ in ruling on the
1213 request. All requests to be dropped must be disposed of prior to
1214 conducting any hearings on the merits of the request for relief.

HB0111

2004
CS

1215 (17) In all respects, the hearing must be informal and
 1216 open to the public and does not require the use of an attorney.
 1217 The hearing must operate at the direction and under the
 1218 supervision of the special magistrate ~~master~~. The object of the
 1219 hearing is to focus attention on the impact of the governmental
 1220 action giving rise to the request for relief and to explore
 1221 alternatives to the development order or enforcement action and
 1222 other regulatory efforts by the governmental entities in order
 1223 to recommend relief, when appropriate, to the owner.

1224 (a) The first responsibility of the special magistrate
 1225 ~~master~~ is to facilitate a resolution of the conflict between the
 1226 owner and governmental entities to the end that some
 1227 modification of the owner's proposed use of the property or
 1228 adjustment in the development order or enforcement action or
 1229 regulatory efforts by one or more of the governmental parties
 1230 may be reached. Accordingly, the special magistrate ~~master~~ shall
 1231 act as a facilitator or mediator between the parties in an
 1232 effort to effect a mutually acceptable solution. The parties
 1233 shall be represented at the mediation by persons with authority
 1234 to bind their respective parties to a solution, or by persons
 1235 with authority to recommend a solution directly to the persons
 1236 with authority to bind their respective parties to a solution.

1237 (b) If an acceptable solution is not reached by the
 1238 parties after the special magistrate's ~~master's~~ attempt at
 1239 mediation, the special magistrate ~~master~~ shall consider the
 1240 facts and circumstances set forth in the request for relief and
 1241 any responses and any other information produced at the hearing
 1242 in order to determine whether the action by the governmental

HB0111

2004
CS

1243 entity or entities is unreasonable or unfairly burdens the real
1244 property.

1245 (c) In conducting the hearing, the special magistrate
1246 ~~master~~ may hear from all parties and witnesses that are
1247 necessary to an understanding of the matter. The special
1248 magistrate ~~master~~ shall weigh all information offered at the
1249 hearing.

1250 (18) The circumstances to be examined in determining
1251 whether the development order or enforcement action, or the
1252 development order or enforcement action in conjunction with
1253 regulatory efforts of other governmental parties, is
1254 unreasonable or unfairly burdens use of the property may
1255 include, but are not limited to:

1256 (a) The history of the real property, including when it
1257 was purchased, how much was purchased, where it is located, the
1258 nature of the title, the composition of the property, and how it
1259 was initially used.

1260 (b) The history or development and use of the real
1261 property, including what was developed on the property and by
1262 whom, if it was subdivided and how and to whom it was sold,
1263 whether plats were filed or recorded, and whether infrastructure
1264 and other public services or improvements may have been
1265 dedicated to the public.

1266 (c) The history of environmental protection and land use
1267 controls and other regulations, including how and when the land
1268 was classified, how use was proscribed, and what changes in
1269 classifications occurred.

HB0111

2004
CS

1270 (d) The present nature and extent of the real property,
1271 including its natural and altered characteristics.

1272 (e) The reasonable expectations of the owner at the time
1273 of acquisition, or immediately prior to the implementation of
1274 the regulation at issue, whichever is later, under the
1275 regulations then in effect and under common law.

1276 (f) The public purpose sought to be achieved by the
1277 development order or enforcement action, including the nature
1278 and magnitude of the problem addressed by the underlying
1279 regulations on which the development order or enforcement action
1280 is based; whether the development order or enforcement action is
1281 necessary to the achievement of the public purpose; and whether
1282 there are alternative development orders or enforcement action
1283 conditions that would achieve the public purpose and allow for
1284 reduced restrictions on the use of the property.

1285 (g) Uses authorized for and restrictions placed on similar
1286 property.

1287 (h) Any other information determined relevant by the
1288 special magistrate ~~master~~.

1289 (19) Within 14 days after the conclusion of the hearing,
1290 the special magistrate ~~master~~ shall prepare and file with all
1291 parties a written recommendation.

1292 (a) If the special magistrate ~~master~~ finds that the
1293 development order at issue, or the development order or
1294 enforcement action in combination with the actions or
1295 regulations of other governmental entities, is not unreasonable
1296 or does not unfairly burden the use of the owner's property, the
1297 special magistrate ~~master~~ must recommend that the development

HB0111

2004
CS

1298 order or enforcement action remain undisturbed and the
 1299 proceeding shall end, subject to the owner's retention of all
 1300 other available remedies.

1301 (b) If the special magistrate ~~master~~ finds that the
 1302 development order or enforcement action, or the development
 1303 order or enforcement action in combination with the actions or
 1304 regulations of other governmental entities, is unreasonable or
 1305 unfairly burdens use of the owner's property, the special
 1306 magistrate ~~master~~, with the owner's consent to proceed, may
 1307 recommend one or more alternatives that protect the public
 1308 interest served by the development order or enforcement action
 1309 and regulations at issue but allow for reduced restraints on the
 1310 use of the owner's real property, including, but not limited to:

1311 1. An adjustment of land development or permit standards
 1312 or other provisions controlling the development or use of land.

1313 2. Increases or modifications in the density, intensity,
 1314 or use of areas of development.

1315 3. The transfer of development rights.

1316 4. Land swaps or exchanges.

1317 5. Mitigation, including payments in lieu of onsite
 1318 mitigation.

1319 6. Location on the least sensitive portion of the
 1320 property.

1321 7. Conditioning the amount of development or use
 1322 permitted.

1323 8. A requirement that issues be addressed on a more
 1324 comprehensive basis than a single proposed use or development.

HB0111

2004
CS

1325 9. Issuance of the development order, a variance, special
1326 exception, or other extraordinary relief, including withdrawal
1327 of the enforcement action.

1328 10. Purchase of the real property, or an interest therein,
1329 by an appropriate governmental entity.

1330 (c) This subsection does not prohibit the owner and
1331 governmental entity from entering in to an agreement as to the
1332 permissible use of the property prior to the special magistrate
1333 ~~master~~ entering a recommendation. An agreement for a
1334 permissible use must be incorporated in the special magistrate's
1335 ~~master's~~ recommendation.

1336 (20) The special magistrate's ~~master's~~ recommendation is a
1337 public record under chapter 119. However, actions or statements
1338 of all participants to the special magistrate ~~master~~ proceeding
1339 are evidence of an offer to compromise and inadmissible in any
1340 proceeding, judicial or administrative.

1341 (21) Within 45 days after receipt of the special
1342 magistrate's ~~master's~~ recommendation, the governmental entity
1343 responsible for the development order or enforcement action and
1344 other governmental entities participating in the proceeding must
1345 consult among themselves and each governmental entity must:

1346 (a) Accept the recommendation of the special magistrate
1347 ~~master~~ as submitted and proceed to implement it by development
1348 agreement, when appropriate, or by other method, in the ordinary
1349 course and consistent with the rules and procedures of that
1350 governmental entity. However, the decision of the governmental
1351 entity to accept the recommendation of the special magistrate
1352 ~~master~~ with respect to granting a modification, variance, or

HB0111

2004
CS

1353 special exception to the application of statutes, rules,
 1354 regulations, or ordinances as they would otherwise apply to the
 1355 subject property does not require an owner to duplicate previous
 1356 processes in which the owner has participated in order to
 1357 effectuate the granting of the modification, variance, or
 1358 special exception;

1359 (b) Modify the recommendation as submitted by the special
 1360 magistrate ~~master~~ and proceed to implement it by development
 1361 agreement, when appropriate, or by other method, in the ordinary
 1362 course and consistent with the rules and procedures of that
 1363 governmental entity; or

1364 (c) Reject the recommendation as submitted by the special
 1365 magistrate ~~master~~. Failure to act within 45 days is a rejection
 1366 unless the period is extended by agreement of the owner and
 1367 issuer of the development order or enforcement action.

1368 (22) If a governmental entity accepts the special
 1369 magistrate's ~~master's~~ recommendation or modifies it and the
 1370 owner rejects the acceptance or modification, or if a
 1371 governmental entity rejects the special magistrate's ~~master's~~
 1372 recommendation, the governmental entity must issue a written
 1373 decision within 30 days that describes as specifically as
 1374 possible the use or uses available to the subject real property.

1375 (23) The procedure established by this section may not
 1376 continue longer than 165 days, unless the period is extended by
 1377 agreement of the parties. A decision describing available uses
 1378 constitutes the last prerequisite to judicial action and the
 1379 matter is ripe or final for subsequent judicial proceedings
 1380 unless the owner initiates a proceeding under ss. 120.569 and

HB0111

2004
CS

1381 120.57. If the owner brings a proceeding under ss. 120.569 and
1382 120.57, the matter is ripe when the proceeding culminates in a
1383 final order whether further appeal is available or not.

1384 (24) The procedure created by this section is not itself,
1385 nor does it create, a judicial cause of action. Once the
1386 governmental entity acts on the special magistrate's ~~master's~~
1387 recommendation, the owner may elect to file suit in a court of
1388 competent jurisdiction. Invoking the procedures of this section
1389 is not a condition precedent to filing a civil action.

1390 (25) Regardless of the action the governmental entity
1391 takes on the special magistrate's ~~master's~~ recommendation, a
1392 recommendation that the development order or enforcement action,
1393 or the development order or enforcement action in combination
1394 with other governmental regulatory actions, is unreasonable or
1395 unfairly burdens use of the owner's real property may serve as
1396 an indication of sufficient hardship to support modification,
1397 variances, or special exceptions to the application of statutes,
1398 rules, regulations, or ordinances to the subject property.

1399 (26) A special magistrate's ~~master's~~ recommendation under
1400 this section constitutes data in support of, and a support
1401 document for, a comprehensive plan or comprehensive plan
1402 amendment, but is not, in and of itself, dispositive of a
1403 determination of compliance with chapter 163. Any comprehensive
1404 plan amendment necessary to carry out the approved
1405 recommendation of a special magistrate ~~master~~ under this section
1406 is exempt from the twice-a-year limit on plan amendments and may
1407 be adopted by the local government amendments in s.
1408 163.3184(16)(d).

HB0111

2004
CS

1409 (27) The special magistrate ~~master~~ shall send a copy of
 1410 the recommendation in each case to the Department of Legal
 1411 Affairs. Each governmental entity, within 15 days after its
 1412 action on the special magistrate's ~~master's~~ recommendation,
 1413 shall notify the Department of Legal Affairs in writing as to
 1414 what action the governmental entity took on the special
 1415 magistrate's ~~master's~~ recommendation.

1416 (28) Each governmental entity may establish procedural
 1417 guidelines to govern the conduct of proceedings authorized by
 1418 this section, which must include, but are not limited to,
 1419 payment of special magistrate ~~master~~ fees and expenses,
 1420 including the costs of providing notice and effecting service of
 1421 the request for relief under this section, which shall be borne
 1422 equally by the governmental entities and the owner.

1423 (29) This section shall be liberally construed to effect
 1424 fully its obvious purposes and intent, and governmental entities
 1425 shall direct all available resources and authorities to effect
 1426 fully the obvious purposes and intent of this section in
 1427 resolving disputes. Governmental entities are encouraged to
 1428 expedite notice and time-related provisions to implement
 1429 resolution of disputes under this section. The procedure
 1430 established by this section may be used to resolve disputes in
 1431 pending judicial proceedings, with the agreement of the parties
 1432 to the judicial proceedings, and subject to the approval of the
 1433 court in which the judicial proceedings are pending. The
 1434 provisions of this section are cumulative, and do not supplant
 1435 other methods agreed to by the parties and lawfully available

HB0111

2004
CS

1436 | for arbitration, mediation, or other forms of alternative
1437 | dispute resolution.

1438 | (30) This section applies only to development orders
1439 | issued, modified, or amended, or to enforcement actions issued,
1440 | on or after October 1, 1995.

1441 | Section 59. Subsection (1) of section 92.142, Florida
1442 | Statutes, is amended to read:

1443 | 92.142 Witnesses; pay.--

1444 | (1) Witnesses in all cases, civil and criminal, in all
1445 | courts, now or hereafter created, and witnesses summoned before
1446 | any arbitrator or general or special magistrate appointed by the
1447 | court ~~master in chancery~~ shall receive for each day's actual
1448 | attendance \$5 and also 6 cents per mile for actual distance
1449 | traveled to and from the courts. A witness in a criminal case
1450 | required to appear in a county other than the county of his or
1451 | her residence and residing more than 50 miles from the location
1452 | of the trial shall be entitled to per diem and travel expenses
1453 | at the same rate provided for state employees under s. 112.061,
1454 | in lieu of any other witness fee at the discretion of the court.

1455 | Section 60. Section 112.41, Florida Statutes, is amended
1456 | to read:

1457 | 112.41 Contents of order of suspension; Senate select
1458 | committee; special magistrate ~~examiner~~.--

1459 | (1) The order of the Governor, in suspending any officer
1460 | pursuant to the provisions of s. 7, Art. IV of the State
1461 | Constitution, shall specify facts sufficient to advise both the
1462 | officer and the Senate as to the charges made or the basis of
1463 | the suspension.

HB0111

2004
CS

1464 (2) The Senate shall conduct a hearing in the manner
1465 prescribed by rules of the Senate adopted for this purpose.

1466 (3) The Senate may provide for a select committee to be
1467 appointed by the Senate in accordance with its rules for the
1468 purpose of hearing the evidence and making its recommendation to
1469 the Senate as to the removal or reinstatement of the suspended
1470 officer.

1471 (4) The Senate may, in lieu of the use of a select
1472 committee, appoint a ~~special examiner or a special~~ magistrate
1473 ~~master~~ to receive the evidence and make recommendations to the
1474 Senate.

1475 Section 61. Section 112.43, Florida Statutes, is amended
1476 to read:

1477 112.43 Prosecution of suspension before Senate.--All
1478 suspensions heard by the Senate, a select committee, or special
1479 magistrate ~~master, or examiner~~ in accordance with rules of the
1480 Senate shall be prosecuted by the Governor, the Governor's legal
1481 staff, or an attorney designated by the Governor. Should the
1482 Senate, or the select committee appointed by the Senate to hear
1483 the evidence and to make recommendations, desire private
1484 counsel, either the Senate or the select committee shall be
1485 entitled to employ its own counsel for this purpose. Nothing
1486 herein shall prevent the Senate or its select committee from
1487 making its own investigation and presenting such evidence as its
1488 investigation may reveal. The Governor may request the advice of
1489 the Department of Legal Affairs relative to the suspension order
1490 prior to its issuance by the Governor. Following the issuance of
1491 the suspension order, either the Senate or the select committee

HB0111

2004
CS

1492 | may request the Department of Legal Affairs to provide counsel
 1493 | for the Senate to advise on questions of law or otherwise advise
 1494 | with the Senate or the select committee, but the Department of
 1495 | Legal Affairs shall not be required to prosecute before the
 1496 | Senate or the committee and shall, pursuant to the terms of this
 1497 | section, act as the legal adviser only.

1498 | Section 62. Section 112.47, Florida Statutes, is amended
 1499 | to read:

1500 | 112.47 Hearing before Senate select committee;
 1501 | notice.--The Senate shall afford each suspended official a
 1502 | hearing before a select committee or special magistrate, ~~master,~~
 1503 | ~~or examiner,~~ and shall notify such suspended official of the
 1504 | time and place of the hearing sufficiently in advance thereof to
 1505 | afford such official an opportunity fully and adequately to
 1506 | prepare such defenses as the official may be advised are
 1507 | necessary and proper, and all such defenses may be presented by
 1508 | the official or by the official's attorney. In the furtherance
 1509 | of this provision the Senate shall adopt sufficient procedural
 1510 | rules to afford due process both to the Governor in the
 1511 | presentation of his or her evidence and to the suspended
 1512 | official, but in the absence of such adoption, this section
 1513 | shall afford a full and complete hearing, public in nature, as
 1514 | required by the State Constitution. However, nothing in this
 1515 | part shall prevent either the select committee or the Senate
 1516 | from conducting portions of the hearing in executive session if
 1517 | the Senate rules so provide.

1518 | Section 63. Subsection (2) of section 162.03, Florida
 1519 | Statutes, is amended to read:

HB0111

2004
CS

1520 162.03 Applicability.--

1521 (2) A charter county, a noncharter county, or a
1522 municipality may, by ordinance, adopt an alternate code
1523 enforcement system that ~~which~~ gives code enforcement boards or
1524 special magistrates ~~masters~~ designated by the local governing
1525 body, or both, the authority to hold hearings and assess fines
1526 against violators of the respective county or municipal codes
1527 and ordinances. A special magistrate ~~master~~ shall have the same
1528 status as an enforcement board under this chapter. References in
1529 this chapter to an enforcement board, except in s. 162.05, shall
1530 include a special magistrate ~~master~~ if the context permits.

1531 Section 64. Subsection (5) of section 162.06, Florida
1532 Statutes, is amended to read:

1533 162.06 Enforcement procedure.--

1534 (5) If the owner of property that ~~which~~ is subject to an
1535 enforcement proceeding before an enforcement board, special
1536 magistrate ~~master~~, or court transfers ownership of such property
1537 between the time the initial pleading was served and the time of
1538 the hearing, such owner shall:

1539 (a) Disclose, in writing, the existence and the nature of
1540 the proceeding to the prospective transferee.

1541 (b) Deliver to the prospective transferee a copy of the
1542 pleadings, notices, and other materials relating to the code
1543 enforcement proceeding received by the transferor.

1544 (c) Disclose, in writing, to the prospective transferee
1545 that the new owner will be responsible for compliance with the
1546 applicable code and with orders issued in the code enforcement
1547 proceeding.

HB0111

2004
CS

1548 (d) File a notice with the code enforcement official of
 1549 the transfer of the property, with the identity and address of
 1550 the new owner and copies of the disclosures made to the new
 1551 owner, within 5 days after the date of the transfer.

1552
 1553 A failure to make the disclosures described in paragraphs (a),
 1554 (b), and (c) before the transfer creates a rebuttable
 1555 presumption of fraud. If the property is transferred before the
 1556 hearing, the proceeding shall not be dismissed, but the new
 1557 owner shall be provided a reasonable period of time to correct
 1558 the violation before the hearing is held.

1559 Section 65. Paragraph (d) of subsection (2) of section
 1560 162.09, Florida Statutes, is amended to read:

1561 162.09 Administrative fines; costs of repair; liens.--

1562 (2)

1563 (d) A county or a municipality having a population equal
 1564 to or greater than 50,000 may adopt, by a vote of at least a
 1565 majority plus one of the entire governing body of the county or
 1566 municipality, an ordinance that gives code enforcement boards or
 1567 special magistrates ~~masters~~, or both, authority to impose fines
 1568 in excess of the limits set forth in paragraph(a). Such fines
 1569 shall not exceed \$1,000 per day per violation for a first
 1570 violation, \$5,000 per day per violation for a repeat violation,
 1571 and up to \$15,000 per violation if the code enforcement board or
 1572 special magistrate ~~master~~ finds the violation to be irreparable
 1573 or irreversible in nature. In addition to such fines, a code
 1574 enforcement board or special magistrate ~~master~~ may impose
 1575 additional fines to cover all costs incurred by the local

HB0111

2004
CS

1576 government in enforcing its codes and all costs of repairs
 1577 pursuant to subsection (1). Any ordinance imposing such fines
 1578 shall include criteria to be considered by the code enforcement
 1579 board or special magistrate ~~master~~ in determining the amount of
 1580 the fines, including, but not limited to, those factors set
 1581 forth in paragraph (b).

1582 Section 66. Section 173.09, Florida Statutes, is amended
 1583 to read:

1584 173.09 Judgment for complainant; special magistrate's
 1585 ~~master's~~ sale; complainant may purchase and later sell.--

1586 (1) Any such decree shall direct the special magistrate
 1587 ~~master~~ thereby appointed to sell the several parcels of land
 1588 separately to the highest and best bidder for cash (or, at the
 1589 option of complainant, to the extent of special assessments
 1590 included in such judgment, for bonds or interest coupons issued
 1591 by complainant), at public outcry at the courthouse door of the
 1592 county in which such suit is pending, or at such point or place
 1593 in the complainant municipality as the court in such final
 1594 decree may direct, after having advertised such sale (which
 1595 advertisement may include all lands so ordered sold) once each
 1596 week for 2 consecutive weeks in some newspaper published in the
 1597 city or town in which ~~is~~ the complainant is situated or, if
 1598 there is no such newspaper, in a newspaper published in the
 1599 county in which the suit is pending, and if all the lands so
 1600 advertised for sale be not sold on the day specified in such
 1601 advertisement, such sale shall be continued from day to day
 1602 until the sale of all such land is completed.

HB0111

2004
CS

1603 (2) Such sales shall be subject to confirmation by the
 1604 court, and the ~~said~~ special magistrate ~~master~~ shall, upon
 1605 confirmation of the sale or sales, deliver to the purchaser or
 1606 purchasers at said sale a deed of conveyance of the property so
 1607 sold; provided, however, that in any case where any lands are
 1608 offered for sale by the special magistrate ~~master~~ and the sum of
 1609 the tax, tax certificates and special assessments, interest,
 1610 penalty, costs, and attorney's fee is not bid for the same, the
 1611 complainant may bid the whole amount due and the special
 1612 magistrate ~~master~~ shall thereupon convey such parcel or parcels
 1613 of land to the complainant.

1614 (3) The property so bid in by complainant shall become its
 1615 property in fee simple and may be disposed of by it in the
 1616 manner provided by law, except that in the sale or disposition
 1617 of any such lands the city or town may, in its discretion,
 1618 accept in payment or part payment therefor any bonds or interest
 1619 coupons constituting liabilities of said city or town.

1620 Section 67. Section 173.10, Florida Statutes, is amended
 1621 to read:

1622 173.10 Judgment for complainant; court may order payment
 1623 of other taxes or sale subject to taxes; special magistrate's
 1624 ~~master's~~ conveyances.--

1625 (1) In the judgment or decree the court may, in its
 1626 discretion, direct the payment of all unpaid state and county
 1627 taxes and also all unpaid city or town taxes and special
 1628 assessments or installments thereof, imposed or falling due
 1629 since the institution of the suit, with the penalties and costs,
 1630 out of the proceeds of such foreclosure sale, or it may order

HB0111

2004
CS

1631 and direct such sale or sales to be made subject to such state,
1632 ~~and~~ county, and city or town taxes and special assessments.

1633 (2) Any and all conveyances by the special magistrate
1634 ~~master~~ shall vest in the purchaser the fee simple title to the
1635 property so sold, subject only to such liens for state and
1636 county taxes or taxing districts whose liens are of equal
1637 dignity, and liens for municipal taxes and special assessments,
1638 or installments thereof, as are not directed by the decree of
1639 sale to be paid out of the proceeds of said sale.

1640 Section 68. Section 173.11, Florida Statutes, is amended
1641 to read:

1642 173.11 Distribution of proceeds of sale.--The proceeds of
1643 any foreclosure sale authorized by this chapter shall be
1644 distributed by the special magistrate ~~master~~ conducting the sale
1645 according to the final decree, and if any surplus remains after
1646 the payment of the full amount of the decree, costs and
1647 attorney's fees, and any subsequent tax liens that ~~which~~ may be
1648 directed by such decree to be paid from the proceeds of sale,
1649 such surplus shall be deposited with the clerk of the court and
1650 disbursed under order of the court.

1651 Section 69. Section 173.12, Florida Statutes, is amended
1652 to read:

1653 173.12 Lands may be redeemed prior to sale.--Any person
1654 interested in any lands included in the suit may redeem such
1655 lands at any time prior to the sale thereof by the special
1656 magistrate ~~master~~ by paying into the registry of the court the
1657 amount due for delinquent taxes, interest and penalties thereon,
1658 and such proportionate part of the expense, attorney's fees, and

HB0111

2004
CS

1659 costs of suit as may have been fixed by the court in its decree
1660 of sale, or by written stipulation of complainant, and thereupon
1661 such lands shall be dismissed from the cause.

1662 Section 70. Subsection (1) of section 194.013, Florida
1663 Statutes, is amended to read:

1664 194.013 Filing fees for petitions; disposition; waiver.--

1665 (1) If so required by resolution of the value adjustment
1666 board, a petition filed pursuant to s. 194.011 shall be
1667 accompanied by a filing fee to be paid to the clerk of the value
1668 adjustment board in an amount determined by the board not to
1669 exceed \$15 for each separate parcel of property, real or
1670 personal, covered by the petition and subject to appeal.

1671 However, no such filing fee may be required with respect to an
1672 appeal from the disapproval of homestead exemption under s.
1673 196.151 or from the denial of tax deferral under s. 197.253.

1674 Only a single filing fee shall be charged under this section as
1675 to any particular parcel of property despite the existence of
1676 multiple issues and hearings pertaining to such parcel. For
1677 joint petitions filed pursuant to s. 194.011(3)(e) or (f), a
1678 single filing fee shall be charged. Such fee shall be calculated
1679 as the cost of the special magistrate ~~master~~ for the time
1680 involved in hearing the joint petition and shall not exceed \$5
1681 per parcel. Said fee is to be proportionately paid by affected
1682 parcel owners.

1683 Section 71. Paragraph (d) of subsection (1) and
1684 subsections (2) and (6) of section 194.034, Florida Statutes,
1685 are amended to read:

1686 194.034 Hearing procedures; rules.--

HB0111

2004
CS

1687 (1)

1688 (d) Notwithstanding the provisions of this subsection, no
1689 petitioner may present for consideration, nor may a board or
1690 special magistrate ~~master~~ accept for consideration, testimony or
1691 other evidentiary materials that were requested of the
1692 petitioner in writing by the property appraiser of which the
1693 petitioner had knowledge and denied to the property appraiser.

1694 (2) In each case, except when a complaint is withdrawn by
1695 the petitioner or is acknowledged as correct by the property
1696 appraiser, the value adjustment board shall render a written
1697 decision. All such decisions shall be issued within 20 calendar
1698 days of the last day the board is in session under s. 194.032.
1699 The decision of the board shall contain findings of fact and
1700 conclusions of law and shall include reasons for upholding or
1701 overturning the determination of the property appraiser. When a
1702 special magistrate ~~master~~ has been appointed, the
1703 recommendations of the special magistrate ~~master~~ shall be
1704 considered by the board. The clerk, upon issuance of the
1705 decisions, shall, on a form provided by the Department of
1706 Revenue, notify by first-class mail each taxpayer, the property
1707 appraiser, and the department of the decision of the board.

1708 (6) For purposes of hearing joint petitions filed pursuant
1709 to s. 194.011(3)(e), each included parcel shall be considered by
1710 the board as a separate petition. Such separate petitions shall
1711 be heard consecutively by the board. If a special magistrate
1712 ~~master~~ is appointed, such separate petitions shall all be
1713 assigned to the same special magistrate ~~master~~.

HB0111

2004
CS

1714 Section 72. Section 194.035, Florida Statutes, is amended
1715 to read:

1716 194.035 Special magistrates ~~masters~~; property
1717 evaluators.--

1718 (1) In counties having a population of more than 75,000,
1719 the board shall appoint special magistrates ~~masters~~ for the
1720 purpose of taking testimony and making recommendations to the
1721 board, which recommendations the board may act upon without
1722 further hearing. These ~~Such~~ special magistrates ~~masters~~ may not
1723 be elected or appointed officials or employees of the county but
1724 shall be selected from a list of those qualified individuals who
1725 are willing to serve as special magistrates ~~masters~~. Employees
1726 and elected or appointed officials of a taxing jurisdiction or
1727 of the state may not serve as special magistrates ~~masters~~. The
1728 clerk of the board shall annually notify such individuals or
1729 their professional associations to make known to them that
1730 opportunities to serve as special magistrates ~~masters~~ exist. The
1731 Department of Revenue shall provide a list of qualified special
1732 magistrates ~~masters~~ to any county with a population of 75,000 or
1733 less. Subject to appropriation, the department shall reimburse
1734 counties with a population of 75,000 or less for payments made
1735 to special magistrates ~~masters~~ appointed for the purpose of
1736 taking testimony and making recommendations to the value
1737 adjustment board pursuant to this section. The department shall
1738 establish a reasonable range for payments per case to special
1739 magistrates ~~masters~~ based on such payments in other counties.
1740 Requests for reimbursement of payments outside this range shall
1741 be justified by the county. If the total of all requests for

HB0111

2004
CS

1742 reimbursement in any year exceeds the amount available pursuant
 1743 to this section, payments to all counties shall be prorated
 1744 accordingly. A special magistrate ~~master~~ appointed to hear
 1745 issues of exemptions and classifications shall be a member of
 1746 The Florida Bar with no less than 5 years' experience in the
 1747 area of ad valorem taxation. A special magistrate ~~master~~
 1748 appointed to hear issues regarding the valuation of real estate
 1749 shall be a state certified real estate appraiser with not less
 1750 than 5 years' experience in real property valuation. A special
 1751 magistrate ~~master~~ appointed to hear issues regarding the
 1752 valuation of tangible personal property shall be a designated
 1753 member of a nationally recognized appraiser's organization with
 1754 not less than 5 years' experience in tangible personal property
 1755 valuation. A special magistrate ~~master~~ need not be a resident of
 1756 the county in which he or she serves. A ~~No~~ special magistrate
 1757 may not ~~master shall be permitted to~~ represent a person before
 1758 the board in any tax year during which he or she has served that
 1759 board as a special magistrate ~~master~~. The board shall appoint
 1760 special magistrates ~~such masters~~ from the list so compiled prior
 1761 to convening of the board. The expense of hearings before
 1762 special magistrates ~~masters~~ and any compensation of special
 1763 magistrates ~~masters~~ shall be borne three-fifths by the board of
 1764 county commissioners and two-fifths by the school board.

1765 (2) The value adjustment board of each county may employ
 1766 qualified property appraisers or evaluators to appear before the
 1767 value adjustment board at that meeting of the board which is
 1768 held for the purpose of hearing complaints. Such property
 1769 appraisers or evaluators shall present testimony as to the just

HB0111

2004
CS

1770 value of any property the value of which is contested before the
1771 board and shall submit to examination by the board, the
1772 taxpayer, and the property appraiser.

1773 Section 73. Section 206.16, Florida Statutes, is amended
1774 to read:

1775 206.16 Officer selling property.--

1776 (1) No sheriff, receiver, assignee, general or special
1777 magistrate ~~master~~, or other officer shall sell the property or
1778 franchise of any person for failure to pay fuel taxes,
1779 penalties, or interest without first filing with the department
1780 a statement containing the following information:

1781 (a) The name of the plaintiff or party at whose instance
1782 or upon whose account the sale is made;

1783 (b) The name of the person whose property or franchise is
1784 to be sold;

1785 (c) The time and place of sale; and

1786 (d) The nature of the property and the location of the
1787 same.

1788 (2) The department, after receiving notice as aforesaid,
1789 shall furnish to the sheriff, receiver, trustee, assignee,
1790 general or special magistrate ~~master~~, or other officer having
1791 charge of the sale a certified copy or copies of all fuel taxes,
1792 penalties, and interest on file in the office of the department
1793 as liens against such person, and, in the event there are no
1794 such liens, a certificate showing that fact, which certified
1795 copies or copy of certificate shall be publicly read by such
1796 officer at and immediately before the sale of the property or
1797 franchise of such person.

HB0111

2004
CS

1798 Section 74. Section 207.016, Florida Statutes, is amended
1799 to read:

1800 207.016 Officer's sale of property or franchise.--

1801 (1) No sheriff, receiver, assignee, general or special
1802 magistrate ~~master~~, or other officer shall sell the property or
1803 franchise of any person for failure to pay taxes, penalties, or
1804 interest without first filing with the department a statement
1805 containing the following information:

1806 (a) The name of the plaintiff or party at whose instance
1807 or upon whose account the sale is made.

1808 (b) The name of the person whose property or franchise is
1809 to be sold.

1810 (c) The time and place of sale.

1811 (d) The nature of the property and the location of the
1812 same.

1813 (2) The department, after receiving notice as provided in
1814 subsection (1), shall furnish to the sheriff, receiver, trustee,
1815 assignee, general or special magistrate ~~master~~, or other officer
1816 having charge of the sale a certified copy or copies of all
1817 taxes, penalties, and interest on file in the office of the
1818 department as liens against such person and, in the event there
1819 are no such liens, a certificate showing that fact, which
1820 certified copy or copies of certificate shall be publicly read
1821 by such officer at and immediately before the sale of the
1822 property or franchise of such person.

1823 Section 75. Section 320.411, Florida Statutes, is amended
1824 to read:

1825 320.411 Officer's sale of property or franchise.--

HB0111

2004
CS

1826 (1) No sheriff, receiver, assignee, general or special
 1827 magistrate ~~master~~, or other officer shall sell the property or
 1828 franchise of any motor carrier for failure to pay taxes,
 1829 penalties, or interest without first filing with the department
 1830 a statement containing the following information:

1831 (a) The name of the plaintiff or party at whose instance
 1832 or upon whose account the sale is made.

1833 (b) The name of the motor carrier whose property or
 1834 franchise is to be sold.

1835 (c) The time and place of sale.

1836 (d) The nature of the property and the location of the
 1837 same.

1838 (2) The department, after receiving notice as provided in
 1839 subsection (1), shall furnish to the sheriff, receiver, trustee,
 1840 assignee, general or special magistrate ~~master~~, or other officer
 1841 having charge of the sale a certified copy of all taxes,
 1842 penalties, and interest on file in the office of the department
 1843 as liens against such motor carrier and, in the event there are
 1844 no such liens, a certificate showing that fact, which certified
 1845 copy or copies of certificate shall be publicly read by such
 1846 officer at and immediately before the sale of the property or
 1847 franchise of such motor carrier.

1848 Section 76. Subsection (7) of section 393.11, Florida
 1849 Statutes, is amended to read:

1850 393.11 Involuntary admission to residential services.--

1851 (7) HEARING.--

1852 (a) The hearing for involuntary admission shall be
 1853 conducted, and the order shall be entered, in the county in

HB0111

2004
CS

1854 | which the person is residing or be as convenient to the person
 1855 | as may be consistent with orderly procedure. The hearing shall
 1856 | be conducted in a physical setting not likely to be injurious to
 1857 | the person's condition.

1858 | (b) A hearing on the petition shall be held as soon as
 1859 | practicable after the petition is filed, but reasonable delay
 1860 | for the purpose of investigation, discovery, or procuring
 1861 | counsel or witnesses shall be granted.

1862 | (c) The court may appoint a general or special magistrate
 1863 | ~~master~~ to preside. Except as otherwise specified, the
 1864 | magistrate's ~~master's~~ proceeding shall be governed by Rule
 1865 | 1.490, Florida Rules of Civil Procedure.

1866 | (d) The person with mental retardation shall be physically
 1867 | present throughout the entire proceeding. If the person's
 1868 | attorney believes that the person's presence at the hearing is
 1869 | not in the person's best interest, the person's presence may be
 1870 | waived once the court has seen the person and the hearing has
 1871 | commenced.

1872 | (e) The person shall have the right to present evidence
 1873 | and to cross-examine all witnesses and other evidence alleging
 1874 | the appropriateness of the person's admission to residential
 1875 | care. Other relevant and material evidence regarding the
 1876 | appropriateness of the person's admission to residential
 1877 | services; the most appropriate, least restrictive residential
 1878 | placement; and the appropriate care, treatment, and habilitation
 1879 | of the person, including written or oral reports, may be
 1880 | introduced at the hearing by any interested person.

HB0111

2004
CS

1881 (f) The petitioning commission may be represented by
 1882 counsel at the hearing. The petitioning commission shall have
 1883 the right to call witnesses, present evidence, cross-examine
 1884 witnesses, and present argument on behalf of the petitioning
 1885 commission.

1886 (g) All evidence shall be presented according to chapter
 1887 90. The burden of proof shall be on the party alleging the
 1888 appropriateness of the person's admission to residential
 1889 services. The burden of proof shall be by clear and convincing
 1890 evidence.

1891 (h) All stages of each proceeding shall be
 1892 stenographically reported.

1893 Section 77. Subsections (6) and (7) of section 394.467,
 1894 Florida Statutes, are amended to read:

1895 394.467 Involuntary placement.--

1896 (6) HEARING ON INVOLUNTARY PLACEMENT.--

1897 (a)1. The court shall hold the hearing on involuntary
 1898 placement within 5 days, unless a continuance is granted. The
 1899 hearing shall be held in the county where the patient is located
 1900 and shall be as convenient to the patient as may be consistent
 1901 with orderly procedure and shall be conducted in physical
 1902 settings not likely to be injurious to the patient's condition.
 1903 If the court finds that the patient's attendance at the hearing
 1904 is not consistent with the best interests of the patient, and
 1905 the patient's counsel does not object, the court may waive the
 1906 presence of the patient from all or any portion of the hearing.
 1907 The state attorney for the circuit in which the patient is
 1908 located shall represent the state, rather than the petitioning

HB0111

2004
CS

1909 facility administrator, as the real party in interest in the
1910 proceeding.

1911 2. The court may appoint a general or special magistrate
1912 ~~master~~ to preside at the hearing. One of the professionals who
1913 executed the involuntary placement certificate shall be a
1914 witness. The patient and the patient's guardian or
1915 representative shall be informed by the court of the right to an
1916 independent expert examination. If the patient cannot afford
1917 such an examination, the court shall provide for one. The
1918 independent expert's report shall be confidential and not
1919 discoverable, unless the expert is to be called as a witness for
1920 the patient at the hearing. The testimony in the hearing must be
1921 given under oath, and the proceedings must be recorded. The
1922 patient may refuse to testify at the hearing.

1923 (b) If the court concludes that the patient meets the
1924 criteria for involuntary placement, it shall order that the
1925 patient be transferred to a treatment facility or, if the
1926 patient is at a treatment facility, that the patient be retained
1927 there or be treated at any other appropriate receiving or
1928 treatment facility, or that the patient receive services from a
1929 receiving or treatment facility, on an involuntary basis, for a
1930 period of up to 6 months. The order shall specify the nature and
1931 extent of the patient's mental illness. The facility shall
1932 discharge a patient any time the patient no longer meets the
1933 criteria for involuntary placement, unless the patient has
1934 transferred to voluntary status.

1935 (c) If at any time prior to the conclusion of the hearing
1936 on involuntary placement it appears to the court that the person

HB0111

2004
CS

1937 | does not meet the criteria for involuntary placement under this
 1938 | chapter, but instead meets the criteria for involuntary
 1939 | assessment, protective custody, or involuntary admission
 1940 | pursuant to s. 397.675, then the court may order the person to
 1941 | be admitted for involuntary assessment for a period of 5 days
 1942 | pursuant to s. 397.6811. Thereafter, all proceedings shall be
 1943 | governed by chapter 397.

1944 | (d) At the hearing on involuntary placement, the court
 1945 | shall consider testimony and evidence regarding the patient's
 1946 | competence to consent to treatment. If the court finds that the
 1947 | patient is incompetent to consent to treatment, it shall appoint
 1948 | a guardian advocate as provided in s. 394.4598.

1949 | (e) The administrator of the receiving facility shall
 1950 | provide a copy of the court order and adequate documentation of
 1951 | a patient's mental illness to the administrator of a treatment
 1952 | facility whenever a patient is ordered for involuntary
 1953 | placement, whether by civil or criminal court. Such
 1954 | documentation shall include any advance directives made by the
 1955 | patient, a psychiatric evaluation of the patient, and any
 1956 | evaluations of the patient performed by a clinical psychologist
 1957 | or a clinical social worker. The administrator of a treatment
 1958 | facility may refuse admission to any patient directed to its
 1959 | facilities on an involuntary basis, whether by civil or criminal
 1960 | court order, who is not accompanied at the same time by adequate
 1961 | orders and documentation.

1962 | (7) PROCEDURE FOR CONTINUED INVOLUNTARY PLACEMENT.--

1963 | (a) Hearings on petitions for continued involuntary
 1964 | placement shall be administrative hearings and shall be

HB0111

2004
CS

1965 | conducted in accordance with the provisions of s. 120.57(1),
 1966 | except that any order entered by the administrative law judge
 1967 | ~~hearing officer~~ shall be final and subject to judicial review in
 1968 | accordance with s. 120.68. Orders concerning patients committed
 1969 | after successfully pleading not guilty by reason of insanity
 1970 | shall be governed by the provisions of s. 916.15.

1971 | (b) If the patient continues to meet the criteria for
 1972 | involuntary placement, the administrator shall, prior to the
 1973 | expiration of the period during which the treatment facility is
 1974 | authorized to retain the patient, file a petition requesting
 1975 | authorization for continued involuntary placement. The request
 1976 | shall be accompanied by a statement from the patient's physician
 1977 | or clinical psychologist justifying the request, a brief
 1978 | description of the patient's treatment during the time he or she
 1979 | was involuntarily placed, and an individualized plan of
 1980 | continued treatment. Notice of the hearing shall be provided as
 1981 | set forth in s. 394.4599. If at the hearing the administrative
 1982 | law judge ~~hearing officer~~ finds that attendance at the hearing
 1983 | is not consistent with the best interests of the patient, the
 1984 | administrative law judge ~~hearing officer~~ may waive the presence
 1985 | of the patient from all or any portion of the hearing, unless
 1986 | the patient, through counsel, objects to the waiver of presence.
 1987 | The testimony in the hearing must be under oath, and the
 1988 | proceedings must be recorded.

1989 | (c) Unless the patient is otherwise represented or is
 1990 | ineligible, he or she shall be represented at the hearing on the
 1991 | petition for continued involuntary placement by the public
 1992 | defender of the circuit in which the facility is located.

HB0111

2004
CS

1993 (d) If at a hearing it is shown that the patient continues
 1994 to meet the criteria for involuntary placement, the
 1995 administrative law judge shall sign the order for continued
 1996 involuntary placement for a period not to exceed 6 months. The
 1997 same procedure shall be repeated prior to the expiration of each
 1998 additional period the patient is retained.

1999 (e) If continued involuntary placement is necessary for a
 2000 patient admitted while serving a criminal sentence, but whose
 2001 sentence is about to expire, or for a patient involuntarily
 2002 placed while a minor but who is about to reach the age of 18,
 2003 the administrator shall petition the administrative law judge
 2004 for an order authorizing continued involuntary placement.

2005 (f) If the patient has been previously found incompetent
 2006 to consent to treatment, the administrative law judge hearing
 2007 ~~officer~~ shall consider testimony and evidence regarding the
 2008 patient's competence. If the administrative law judge hearing
 2009 ~~officer~~ finds evidence that the patient is now competent to
 2010 consent to treatment, the administrative law judge hearing
 2011 ~~officer~~ may issue a recommended order to the court that found
 2012 the patient incompetent to consent to treatment that the
 2013 patient's competence be restored and that any guardian advocate
 2014 previously appointed be discharged.

2015 Section 78. Subsection (7) of section 397.311, Florida
 2016 Statutes, is amended to read:

2017 397.311 Definitions.--As used in this chapter, except part
 2018 VIII:

2019 (7) "Court" means, with respect to all involuntary
 2020 proceedings under this chapter, the circuit court of the county

HB0111

2004
CS

2021 in which the judicial proceeding is pending or where the
 2022 substance abuse impaired person resides or is located, and
 2023 includes any general or special magistrate ~~master~~ that may be
 2024 appointed by the chief judge to preside over all or part of such
 2025 proceeding. Otherwise, "court" refers to the court of legal
 2026 jurisdiction in the context in which the term is used in this
 2027 chapter.

2028 Section 79. Subsection (1) of section 397.681, Florida
 2029 Statutes, is amended to read:

2030 397.681 Involuntary petitions; general provisions; court
 2031 jurisdiction and right to counsel.--

2032 (1) JURISDICTION.--The courts have jurisdiction of
 2033 involuntary assessment and stabilization petitions and
 2034 involuntary treatment petitions for substance abuse impaired
 2035 persons, and such petitions must be filed with the clerk of the
 2036 court in the county where the person is located. The chief judge
 2037 may appoint a general or special magistrate ~~master~~ to preside
 2038 over all or part of the proceedings. The alleged impaired person
 2039 is named as the respondent.

2040 Section 80. Subsection (5) of section 447.207, Florida
 2041 Statutes, is amended to read:

2042 447.207 Commission; powers and duties.--

2043 (5) The commission shall adopt rules as to the
 2044 qualifications of persons who may serve as mediators and special
 2045 magistrates ~~masters~~ and shall maintain lists of such qualified
 2046 persons who are not employees of the commission. The commission
 2047 may initiate dispute resolution procedures by special
 2048 magistrates ~~masters~~, pursuant to the provisions of this part.

HB0111

2004
CS

2049 Section 81. Subsections (2), (3), and (4) of section
2050 447.403, Florida Statutes, are amended to read:

2051 447.403 Resolution of impasses.--

2052 (2)(a) If no mediator is appointed, or upon the request of
2053 either party, the commission shall appoint, and submit all
2054 unresolved issues to, a special magistrate ~~master~~ acceptable to
2055 both parties. If the parties are unable to agree on the
2056 appointment of a special magistrate ~~master~~, the commission shall
2057 appoint, in its discretion, a qualified special magistrate
2058 ~~master~~. However, if the parties agree in writing to waive the
2059 appointment of a special magistrate ~~master~~, the parties may
2060 proceed directly to resolution of the impasse by the legislative
2061 body pursuant to paragraph (4)(d). Nothing in this section
2062 precludes the parties from using the services of a mediator at
2063 any time during the conduct of collective bargaining.

2064 (b) If the Governor is the public employer, no special
2065 magistrate ~~master~~ shall be appointed. The parties may proceed
2066 directly to the Legislature for resolution of the impasse
2067 pursuant to paragraph (4)(d).

2068 (3) The special magistrate ~~master~~ shall hold hearings in
2069 order to define the area or areas of dispute, to determine facts
2070 relating to the dispute, and to render a decision on any and all
2071 unresolved contract issues. The hearings shall be held at times,
2072 dates, and places to be established by the special magistrate
2073 ~~master~~ in accordance with rules promulgated by the commission.
2074 The special magistrate ~~master~~ shall be empowered to administer
2075 oaths and issue subpoenas on behalf of the parties to the
2076 dispute or on his or her own behalf. Within 15 calendar days

HB0111

2004
CS

2077 after the close of the final hearing, the special magistrate
2078 ~~master~~ shall transmit his or her recommended decision to the
2079 commission and to the representatives of both parties by
2080 registered mail, return receipt requested. Such recommended
2081 decision shall be discussed by the parties, and each
2082 recommendation of the special magistrate ~~master~~ shall be deemed
2083 approved by both parties unless specifically rejected by either
2084 party by written notice filed with the commission within 20
2085 calendar days after the date the party received the special
2086 magistrate's ~~master's~~ recommended decision. The written notice
2087 shall include a statement of the cause for each rejection and
2088 shall be served upon the other party.

2089 (4) If either the public employer or the employee
2090 organization does not accept, in whole or in part, the
2091 recommended decision of the special magistrate ~~master~~:

2092 (a) The chief executive officer of the governmental entity
2093 involved shall, within 10 days after rejection of a
2094 recommendation of the special magistrate ~~master~~, submit to the
2095 legislative body of the governmental entity involved a copy of
2096 the findings of fact and recommended decision of the special
2097 magistrate ~~master~~, together with the chief executive officer's
2098 recommendations for settling the disputed impasse issues. The
2099 chief executive officer shall also transmit his or her
2100 recommendations to the employee organization;

2101 (b) The employee organization shall submit its
2102 recommendations for settling the disputed impasse issues to such
2103 legislative body and to the chief executive officer;

HB0111

2004
CS

2104 (c) The legislative body or a duly authorized committee
2105 thereof shall forthwith conduct a public hearing at which the
2106 parties shall be required to explain their positions with
2107 respect to the rejected recommendations of the special
2108 magistrate ~~master~~;

2109 (d) Thereafter, the legislative body shall take such
2110 action as it deems to be in the public interest, including the
2111 interest of the public employees involved, to resolve all
2112 disputed impasse issues; and

2113 (e) Following the resolution of the disputed impasse
2114 issues by the legislative body, the parties shall reduce to
2115 writing an agreement which includes those issues agreed to by
2116 the parties and those disputed impasse issues resolved by the
2117 legislative body's action taken pursuant to paragraph(d). The
2118 agreement shall be signed by the chief executive officer and the
2119 bargaining agent and shall be submitted to the public employer
2120 and to the public employees who are members of the bargaining
2121 unit for ratification. If such agreement is not ratified by all
2122 parties, pursuant to the provisions of s. 447.309, the
2123 legislative body's action taken pursuant to the provisions of
2124 paragraph (d) shall take effect as of the date of such
2125 legislative body's action for the remainder of the first fiscal
2126 year which was the subject of negotiations; however, the
2127 legislative body's action shall not take effect with respect to
2128 those disputed impasse issues which establish the language of
2129 contractual provisions which could have no effect in the absence
2130 of a ratified agreement, including, but not limited to,
2131 preambles, recognition clauses, and duration clauses.

HB0111

2004
CS

2132 Section 82. Section 447.405, Florida Statutes, is amended
2133 to read:

2134 447.405 Factors to be considered by the special magistrate
2135 ~~master~~.--The special magistrate ~~master~~ shall conduct the
2136 hearings and render recommended decisions with the objective of
2137 achieving a prompt, peaceful, and just settlement of disputes
2138 between the public employee organizations and the public
2139 employers. The factors, among others, to be given weight by the
2140 special magistrate ~~master~~ in arriving at a recommended decision
2141 shall include:

2142 (1) Comparison of the annual income of employment of the
2143 public employees in question with the annual income of
2144 employment maintained for the same or similar work of employees
2145 exhibiting like or similar skills under the same or similar
2146 working conditions in the local operating area involved.

2147 (2) Comparison of the annual income of employment of the
2148 public employees in question with the annual income of
2149 employment of public employees in similar public employee
2150 governmental bodies of comparable size within the state.

2151 (3) The interest and welfare of the public.

2152 (4) Comparison of peculiarities of employment in regard to
2153 other trades or professions, specifically with respect to:

- 2154 (a) Hazards of employment.
- 2155 (b) Physical qualifications.
- 2156 (c) Educational qualifications.
- 2157 (d) Intellectual qualifications.
- 2158 (e) Job training and skills.
- 2159 (f) Retirement plans.

HB0111

2004
CS

2160 (g) Sick leave.

2161 (h) Job security.

2162 (5) Availability of funds.

2163 Section 83. Section 447.407, Florida Statutes, is amended
2164 to read:

2165 447.407 Compensation of mediator and special magistrate
2166 ~~master~~; expenses.--The compensation of the mediator and special
2167 magistrate ~~master~~, and all stenographic and other expenses,
2168 shall be borne equally by the parties.

2169 Section 84. Section 447.409, Florida Statutes, is amended
2170 to read:

2171 447.409 Records.--All records that ~~which~~ are relevant to,
2172 or have a bearing upon, any issue or issues raised by the
2173 proceedings conducted by the special magistrate ~~master~~ shall be
2174 made available to the special magistrate ~~master~~ by a request in
2175 writing to any of the parties to the impasse proceedings. Notice
2176 of such request must ~~shall~~ be furnished to all parties. Any such
2177 records that ~~which~~ are made available to the special magistrate
2178 must ~~master shall~~ also be made available to any other party to
2179 the impasse proceedings, upon written request.

2180 Section 85. Subsection (1) of section 475.011, Florida
2181 Statutes, is amended to read:

2182 475.011 Exemptions.--This part does not apply to:

2183 (1) Any person acting as an attorney in fact for the
2184 purpose of the execution of contracts or conveyances only; as an
2185 attorney at law within the scope of her or his duties as such;
2186 as a certified public accountant, as defined in chapter 473,
2187 within the scope of her or his duties as such; as the personal

HB0111

2004
CS

2188 representative, receiver, trustee, or general or special
 2189 magistrate ~~master~~ under, or by virtue of, an appointment by will
 2190 or by order of a court of competent jurisdiction; or as trustee
 2191 under a deed of trust, or under a trust agreement, the ultimate
 2192 purpose and intent whereof is charitable, is philanthropic, or
 2193 provides for those having a natural right to the bounty of the
 2194 donor or trustor.

2195 Section 86. Paragraphs (d), (f), (g), (h), and (j) of
 2196 subsection (5) of section 489.127, Florida Statutes, are amended
 2197 to read:

2198 489.127 Prohibitions; penalties.--

2199 (5) Each county or municipality may, at its option,
 2200 designate one or more of its code enforcement officers, as
 2201 defined in chapter 162, to enforce, as set out in this
 2202 subsection, the provisions of subsection (1) and s. 489.132(1)
 2203 against persons who engage in activity for which a county or
 2204 municipal certificate of competency or license or state
 2205 certification or registration is required.

2206 (d) The act for which the citation is issued shall be
 2207 ceased upon receipt of the citation; and the person charged with
 2208 the violation shall elect either to correct the violation and
 2209 pay the civil penalty in the manner indicated on the citation
 2210 or, within 10 days of receipt of the citation, exclusive of
 2211 weekends and legal holidays, request an administrative hearing
 2212 before the enforcement or licensing board or designated special
 2213 magistrate ~~master~~ to appeal the issuance of the citation by the
 2214 code enforcement officer.

HB0111

2004
CS

2215 | 1. Hearings shall be held before an enforcement or
 2216 | licensing board or designated special magistrate ~~master~~ as
 2217 | established by s. 162.03(2), and such hearings shall be
 2218 | conducted pursuant to the requirements of ss. 162.07 and 162.08.

2219 | 2. Failure of a violator to appeal the decision of the
 2220 | code enforcement officer within the time period set forth in
 2221 | this paragraph shall constitute a waiver of the violator's right
 2222 | to an administrative hearing. A waiver of the right to an
 2223 | administrative hearing shall be deemed an admission of the
 2224 | violation, and penalties may be imposed accordingly.

2225 | 3. If the person issued the citation, or his or her
 2226 | designated representative, shows that the citation is invalid or
 2227 | that the violation has been corrected prior to appearing before
 2228 | the enforcement or licensing board or designated special
 2229 | magistrate ~~master~~, the enforcement or licensing board or
 2230 | designated special magistrate ~~master~~ may dismiss the citation
 2231 | unless the violation is irreparable or irreversible.

2232 | 4. Each day a willful, knowing violation continues shall
 2233 | constitute a separate offense under the provisions of this
 2234 | subsection.

2235 | (f) If the enforcement or licensing board or designated
 2236 | special magistrate ~~master~~ finds that a violation exists, the
 2237 | enforcement or licensing board or designated special magistrate
 2238 | ~~master~~ may order the violator to pay a civil penalty of not less
 2239 | than the amount set forth on the citation but not more than
 2240 | \$1,000 per day for each violation. In determining the amount of
 2241 | the penalty, the enforcement or licensing board or designated
 2242 | special magistrate ~~master~~ shall consider the following factors:

HB0111

2004
CS

2243 | 1. The gravity of the violation.
 2244 | 2. Any actions taken by the violator to correct the
 2245 | violation.
 2246 | 3. Any previous violations committed by the violator.
 2247 | (g) Upon written notification by the code enforcement
 2248 | officer that a violator had not contested the citation or paid
 2249 | the civil penalty within the timeframe allowed on the citation,
 2250 | or if a violation has not been corrected within the timeframe
 2251 | set forth on the notice of violation, the enforcement or
 2252 | licensing board or the designated special magistrate ~~master~~
 2253 | shall enter an order ordering the violator to pay the civil
 2254 | penalty set forth on the citation or notice of violation, and a
 2255 | hearing shall not be necessary for the issuance of such order.
 2256 | (h) A certified copy of an order imposing a civil penalty
 2257 | against an uncertified contractor may be recorded in the public
 2258 | records and thereafter shall constitute a lien against any real
 2259 | or personal property owned by the violator. Upon petition to the
 2260 | circuit court, such order may be enforced in the same manner as
 2261 | a court judgment by the sheriffs of this state, including a levy
 2262 | against personal property; however, such order shall not be
 2263 | deemed to be a court judgment except for enforcement purposes. A
 2264 | civil penalty imposed pursuant to this part shall continue to
 2265 | accrue until the violator comes into compliance or until
 2266 | judgment is rendered in a suit to foreclose on a lien filed
 2267 | pursuant to this subsection, whichever occurs first. After 3
 2268 | months from the filing of any such lien which remains unpaid,
 2269 | the enforcement board or licensing board or designated special
 2270 | magistrate ~~master~~ may authorize the local governing body's

HB0111

2004
CS

2271 attorney to foreclose on the lien. No lien created pursuant to
 2272 the provisions of this part may be foreclosed on real property
 2273 which is a homestead under s. 4, Art. X of the State
 2274 Constitution.

2275 (j) An aggrieved party, including the local governing
 2276 body, may appeal a final administrative order of an enforcement
 2277 board or licensing board or designated special magistrate ~~master~~
 2278 to the circuit court. Such an appeal shall not be a hearing de
 2279 novo but shall be limited to appellate review of the record
 2280 created before the enforcement board or licensing board or
 2281 designated special magistrate ~~master~~. An appeal shall be filed
 2282 within 30 days of the execution of the order to be appealed.

2283 Section 87. Paragraphs (d), (f), (g), (h), and (j) of
 2284 subsection (4) of section 489.531, Florida Statutes, are amended
 2285 to read:

2286 489.531 Prohibitions; penalties.--

2287 (4) Each county or municipality may, at its option,
 2288 designate one or more of its code enforcement officers, as
 2289 defined in chapter 162, to enforce, as set out in this
 2290 subsection, the provisions of subsection (1) against persons who
 2291 engage in activity for which county or municipal certification
 2292 is required.

2293 (d) The act for which the citation is issued shall be
 2294 ceased upon receipt of the citation; and the person charged with
 2295 the violation shall elect either to correct the violation and
 2296 pay the civil penalty in the manner indicated on the citation
 2297 or, within 10 days of receipt of the citation, exclusive of
 2298 weekends and legal holidays, request an administrative hearing

HB0111

2004
CS

2299 | before the enforcement or licensing board or designated special
2300 | magistrate ~~master~~ to appeal the issuance of the citation by the
2301 | code enforcement officer.

2302 | 1. Hearings shall be held before an enforcement or
2303 | licensing board or designated special magistrate ~~master~~ as
2304 | established by s. 162.03(2) and such hearings shall be conducted
2305 | pursuant to ss. 162.07 and 162.08.

2306 | 2. Failure of a violator to appeal the decision of the
2307 | code enforcement officer within the time period set forth in
2308 | this paragraph shall constitute a waiver of the violator's right
2309 | to an administrative hearing. A waiver of the right to
2310 | administrative hearing shall be deemed an admission of the
2311 | violation and penalties may be imposed accordingly.

2312 | 3. If the person issued the citation, or his or her
2313 | designated representative, shows that the citation is invalid or
2314 | that the violation has been corrected prior to appearing before
2315 | the enforcement or licensing board or designated special
2316 | magistrate ~~master~~, the enforcement or licensing board or
2317 | designated special magistrate ~~master~~ shall dismiss the citation
2318 | unless the violation is irreparable or irreversible.

2319 | 4. Each day a willful, knowing violation continues shall
2320 | constitute a separate offense under the provisions of this
2321 | subsection.

2322 | (f) If the enforcement or licensing board or designated
2323 | special magistrate ~~master~~ finds that a violation exists, the
2324 | enforcement or licensing board or designated special magistrate
2325 | ~~master~~ may order the violator to pay a civil penalty of not less
2326 | than the amount set forth on the citation but not more than \$500

HB0111

2004
CS

2327 per day for each violation. In determining the amount of the
 2328 penalty, the enforcement or licensing board or designated
 2329 special magistrate ~~master~~ shall consider the following factors:

- 2330 1. The gravity of the violation.
- 2331 2. Any actions taken by the violator to correct the
- 2332 violation.
- 2333 3. Any previous violations committed by the violator.

2334 (g) Upon written notification by the code enforcement
 2335 officer that a violator had not contested the citation or paid
 2336 the civil penalty within the timeframe allowed on the citation,
 2337 or if a violation has not been corrected within the timeframe
 2338 set forth on the notice of violation, the enforcement or
 2339 licensing board or the designated special magistrate ~~master~~
 2340 shall enter an order ordering the violator to pay the civil
 2341 penalty set forth on the citation or notice of violation, and a
 2342 hearing shall not be necessary for the issuance of such order.

2343 (h) A certified copy of an order imposing a civil penalty
 2344 against an uncertified contractor may be recorded in the public
 2345 records and thereafter shall constitute a lien against any real
 2346 or personal property owned by the violator. Upon petition to the
 2347 circuit court, such order may be enforced in the same manner as
 2348 a court judgment by the sheriffs of this state, including a levy
 2349 against personal property; however, such order shall not be
 2350 deemed to be a court judgment except for enforcement purposes.
 2351 A civil penalty imposed pursuant to this part shall continue to
 2352 accrue until the violator comes into compliance or until
 2353 judgment is rendered in a suit to foreclose on a lien filed
 2354 pursuant to this section, whichever occurs first. After 3 months

HB0111

2004
CS

2355 | from the filing of any such lien which remains unpaid, the
 2356 | enforcement or licensing board or designated special magistrate
 2357 | ~~master~~ may authorize the local governing body's attorney to
 2358 | foreclose on the lien. No lien created pursuant to the
 2359 | provisions of this part may be foreclosed on real property which
 2360 | is a homestead under s. 4, Art. X of the State Constitution.

2361 | (j) An aggrieved party, including the local governing
 2362 | body, may appeal a final administrative order of an enforcement
 2363 | or licensing board or ~~special~~ designated special magistrate
 2364 | ~~master~~ to the circuit court. Such an appeal shall not be a
 2365 | hearing de novo but shall be limited to appellate review of the
 2366 | record created before the enforcement or licensing board or
 2367 | designated special magistrate ~~master~~. An appeal shall be filed
 2368 | within 30 days of the execution of the order to be appealed.

2369 | Section 88. Subsection (1) of section 496.420, Florida
 2370 | Statutes, is amended to read:

2371 | 496.420 Civil remedies and enforcement.--

2372 | (1) In addition to other remedies authorized by law, the
 2373 | department may bring a civil action in circuit court to enforce
 2374 | ss. 496.401-496.424 or s. 496.426. Upon a finding that any
 2375 | person has violated any of these sections, a court may make any
 2376 | necessary order or enter a judgment including, but not limited
 2377 | to, a temporary or permanent injunction, a declaratory judgment,
 2378 | the appointment of a general or special magistrate ~~master~~ or
 2379 | receiver, the sequestration of assets, the reimbursement of
 2380 | persons from whom contributions have been unlawfully solicited,
 2381 | the distribution of contributions in accordance with the
 2382 | charitable or sponsor purpose expressed in the registration

HB0111

2004
CS

2383 | statement or in accordance with the representations made to the
 2384 | person solicited, the reimbursement of the department for
 2385 | investigative costs, attorney's fees and costs, and any other
 2386 | equitable relief the court finds appropriate. Upon a finding
 2387 | that any person has violated any provision of ss. 496.401-
 2388 | 496.424 or s. 496.426 with actual knowledge or knowledge fairly
 2389 | implied on the basis of objective circumstances, a court may
 2390 | enter an order imposing a civil penalty in an amount not to
 2391 | exceed \$10,000 per violation.

2392 | Section 89. Subsection (3) of section 501.207, Florida
 2393 | Statutes, is amended to read:

2394 | 501.207 Remedies of enforcing authority.--

2395 | (3) Upon motion of the enforcing authority or any
 2396 | interested party in any action brought under subsection (1), the
 2397 | court may make appropriate orders, including, but not limited
 2398 | to, appointment of a general or special magistrate ~~master~~ or
 2399 | receiver or sequestration or freezing of assets, to reimburse
 2400 | consumers or governmental entities found to have been damaged;
 2401 | to carry out a transaction in accordance with the reasonable
 2402 | expectations of consumers or governmental entities; to strike or
 2403 | limit the application of clauses of contracts to avoid an
 2404 | unconscionable result; to order any defendant to divest herself
 2405 | or himself of any interest in any enterprise, including real
 2406 | estate; to impose reasonable restrictions upon the future
 2407 | activities of any defendant to impede her or him from engaging
 2408 | in or establishing the same type of endeavor; to order the
 2409 | dissolution or reorganization of any enterprise; or to grant
 2410 | legal, equitable, or other appropriate relief. The court may

HB0111

2004
CS

2411 assess the expenses of a general or special magistrate ~~master~~ or
 2412 receiver against a person who has violated, is violating, or is
 2413 otherwise likely to violate this part. Any injunctive order,
 2414 whether temporary or permanent, issued by the court shall be
 2415 effective throughout the state unless otherwise provided in the
 2416 order.

2417 Section 90. Section 501.618, Florida Statutes, is amended
 2418 to read:

2419 501.618 General civil remedies.--The department may bring:

2420 (1) An action to obtain a declaratory judgment that an act
 2421 or practice violates the provisions of this part.

2422 (2) An action to enjoin a person who has violated, is
 2423 violating, or is otherwise likely to violate the provisions of
 2424 this part.

2425 (3) An action on behalf of one or more purchasers for the
 2426 actual damages caused by an act or practice performed in
 2427 violation of the provisions of this part. Such an action may
 2428 include, but is not limited to, an action to recover against a
 2429 bond, letter of credit, or certificate of deposit as otherwise
 2430 provided in this part.

2431
 2432 Upon motion of the enforcing authority in any action brought
 2433 under this section, the court may make appropriate orders,
 2434 including appointment of a general or special magistrate ~~master~~
 2435 or receiver or sequestration of assets, to reimburse consumers
 2436 found to have been damaged, to carry out a consumer transaction
 2437 in accordance with the consumer's reasonable expectations, or to
 2438 grant other appropriate relief. The court may assess the

HB0111

2004
CS

2439 | expenses of a general or special magistrate ~~master~~ or receiver
 2440 | against a commercial telephone seller. Any injunctive order,
 2441 | whether temporary or permanent, issued by the court shall be
 2442 | effective throughout the state unless otherwise provided in the
 2443 | order.

2444 | Section 91. Subsection (6) of section 559.936, Florida
 2445 | Statutes, is amended to read:

2446 | 559.936 Civil penalties; remedies.--

2447 | (6) Upon motion of the department in any action brought
 2448 | under this part, the court may make appropriate orders,
 2449 | including appointment of a general or special magistrate ~~master~~
 2450 | or receiver or sequestration of assets, to reimburse consumers
 2451 | found to have been damaged, to carry out a consumer transaction
 2452 | in accordance with the consumer's reasonable expectations, or to
 2453 | grant other appropriate relief.

2454 | Section 92. Subsection (1) of section 582.23, Florida
 2455 | Statutes, is amended to read:

2456 | 582.23 Performance of work under the regulations by the
 2457 | supervisors.--

2458 | (1) The supervisors may go upon any lands within the
 2459 | district to determine whether land use regulations adopted are
 2460 | being observed. Where the supervisors of any district shall find
 2461 | that any of the provisions of land use regulations adopted are
 2462 | not being observed on particular lands, and that such
 2463 | nonobservance tends to increase erosion on such lands and is
 2464 | interfering with the prevention or control of erosion on other
 2465 | lands within the district, the supervisors may present to the
 2466 | circuit court for the county or counties within which the lands

HB0111

2004
CS

2467 of the defendant may lie, a petition, duly verified, setting
 2468 forth the adoption of the land use regulations, the failure of
 2469 the defendant landowner or occupier to observe such regulations,
 2470 and to perform particular work, operations, or avoidances as
 2471 required thereby, and that such nonobservance tends to increase
 2472 erosion on such lands and is interfering with the prevention or
 2473 control of erosion on other lands within the district, and
 2474 praying the court to require the defendant to perform the work,
 2475 operations, or avoidances within a reasonable time and to order
 2476 that if the defendant shall fail so to perform the supervisors
 2477 may go on the land, perform the work or other operations or
 2478 otherwise bring the condition of such lands into conformity with
 2479 the requirements of such regulations, and recover the costs and
 2480 expenses thereof, with interest, from the owner of such land.
 2481 Upon the presentation of such petition the court shall cause
 2482 process to be issued against the defendant, and shall hear the
 2483 case. If it shall appear to the court that testimony is
 2484 necessary for the proper disposition of the matter, it may take
 2485 evidence or appoint a special magistrate ~~master~~ to take such
 2486 evidence as it may direct and report the same to the court
 2487 within her or his findings of fact and conclusions of law, which
 2488 shall constitute a part of the proceedings upon which the
 2489 determination of the court shall be made.

2490 Section 93. Subsection (2) of section 631.182, Florida
 2491 Statutes, is amended to read:

2492 631.182 Receiver claims report and claimants objections
 2493 procedure.--

HB0111

2004
CS

2494 (2) At the hearing, any interested person is entitled to
 2495 appear. The hearing shall not be de novo but shall be limited to
 2496 the record as described in s. 631.181(2). The court shall enter
 2497 an order allowing, allowing in part, or disallowing the claim.
 2498 Any such order is deemed to be an appealable order. In the
 2499 interests of judicial economy, the court may appoint a special
 2500 magistrate ~~master~~ to resolve objections or to perform any
 2501 particular service required by the court. This subsection shall
 2502 apply to receivership proceedings commencing prior to, or
 2503 subsequent to, July 1, 1997.

2504 Section 94. Subsections (3) and (4) of section 631.331,
 2505 Florida Statutes, are amended to read:

2506 631.331 Assessment prima facie correct; notice; payment;
 2507 proceeding to collect.--

2508 (3) If any such member or subscriber fails to pay the
 2509 assessment within the period specified in the notice, which
 2510 period shall not be less than 20 days after mailing, the
 2511 department may obtain an order in the delinquency proceeding
 2512 requiring the member or subscriber to show cause at a time and
 2513 place fixed by the court why judgment should not be entered
 2514 against such member or subscriber for the amount of the
 2515 assessment, together with all costs. ~~and~~ A copy of the order
 2516 and a copy of the petition therefor shall be served upon the
 2517 member or subscriber within the time and in the manner
 2518 designated in the order.

2519 (4) If the subscriber or member after due service of a
 2520 copy of the order and petition referred to in subsection (3) is
 2521 made upon her or him:

HB0111

2004
CS

2522 (a) Fails to appear at the time and place specified in the
2523 order, judgment shall be entered against her or him as prayed
2524 for in the petition; or

2525 (b) Appears in the manner and form required by law in
2526 response to the order, the court shall hear and determine the
2527 matter and enter a judgment in accordance with its decision. In
2528 the interests of judicial economy, the court may appoint a
2529 special magistrate ~~master~~ to resolve objections or to perform
2530 any particular service required by the court. This paragraph
2531 shall apply to receivership proceedings commencing prior to, or
2532 subsequent to, July 1, 1997.

2533 Section 95. Subsection (2) of section 633.052, Florida
2534 Statutes, is amended to read:

2535 633.052 Ordinances relating to firesafety; definitions;
2536 penalties.--

2537 (2) A county or municipality that ~~which~~ has created a code
2538 enforcement board or special magistrate ~~master~~ system pursuant
2539 to chapter 162 may enforce firesafety code violations as
2540 provided in chapter 162. The governing body of a county or
2541 municipality which has not created a code enforcement board or
2542 special magistrate ~~master~~ system for firesafety under chapter
2543 162 is authorized to enact ordinances relating to firesafety
2544 codes, which ordinances shall provide:

2545 (a) That a violation of such an ordinance is a civil
2546 infraction.

2547 (b) A maximum civil penalty not to exceed \$500.

HB0111

2004
CS

2548 (c) A civil penalty of less than the maximum civil penalty
2549 if the person who has committed the civil infraction does not
2550 contest the citation.

2551 (d) For the issuance of a citation by an officer who has
2552 probable cause to believe that a person has committed a
2553 violation of an ordinance relating to firesafety.

2554 (e) For the contesting of a citation in the county court.

2555 (f) Such procedures and provisions necessary to implement
2556 any ordinances enacted under the authority of this section.

2557 Section 96. Subsection (2) of section 744.369, Florida
2558 Statutes, is amended to read:

2559 744.369 Judicial review of guardianship reports.--

2560 (2) The court may appoint general or special magistrates
2561 ~~masters~~ to assist the court in its review function. The court
2562 may require the general or special magistrate ~~master~~ to conduct
2563 random field audits.

2564 Section 97. Subsection (11) of section 760.11, Florida
2565 Statutes, is amended to read:

2566 760.11 Administrative and civil remedies; construction.--

2567 (11) If a complaint is within the jurisdiction of the
2568 commission, the commission shall simultaneously with its other
2569 statutory obligations attempt to eliminate or correct the
2570 alleged discrimination by informal methods of conference,
2571 conciliation, and persuasion. Nothing said or done in the course
2572 of such informal endeavors may be made public or used as
2573 evidence in a subsequent civil proceeding, trial, or hearing.
2574 The commission may initiate dispute resolution procedures,
2575 including voluntary arbitration, by special magistrates ~~masters~~

HB0111

2004
CS

2576 or mediators. The commission may adopt rules as to the
2577 qualifications of persons who may serve as special magistrates
2578 ~~masters~~ and mediators.

2579 Section 98. Subsection (1) of section 837.011, Florida
2580 Statutes, is amended to read:

2581 837.011 Definitions.--In this chapter, unless a different
2582 meaning plainly is required:

2583 (1) "Official proceeding" means a proceeding heard, or
2584 which may be or is required to be heard, before any legislative,
2585 judicial, administrative, or other governmental agency or
2586 official authorized to take evidence under oath, including any
2587 referee, general or special magistrate ~~master in chancery~~,
2588 administrative law judge, hearing officer, hearing examiner,
2589 commissioner, notary, or other person taking testimony or a
2590 deposition in connection with any such proceeding.

2591 Section 99. Subsection (6) of section 838.014, Florida
2592 Statutes, is amended to read:

2593 838.014 Definitions.--As used in this chapter, the term:

2594 (6) "Public servant" means:

2595 (a) Any officer or employee of a state, county, municipal,
2596 or special district agency or entity;

2597 (b) Any legislative or judicial officer or employee;

2598 (c) Any person, except a witness, who acts as a general or
2599 special magistrate ~~master~~, receiver, auditor, arbitrator,
2600 umpire, referee, consultant, or hearing officer while performing
2601 a governmental function; or

2602 (d) A candidate for election or appointment to any of the
2603 positions listed in this subsection, or an individual who has

HB0111

2004
CS

2604 | been elected to, but has yet to officially assume the
2605 | responsibilities of, public office.

2606 | Section 100. Section 839.17, Florida Statutes, is amended
2607 | to read:

2608 | 839.17 Misappropriation of moneys by commissioners to make
2609 | sales.--Any commissioner or general or special magistrate ~~master~~
2610 | ~~in chancery~~, having received the purchase money or the
2611 | securities resulting from any of the sales authorized by law,
2612 | who shall fail to deliver such moneys and securities, or either
2613 | of them, to the executor or administrator, or the person
2614 | entitled to receive the same, upon the order of the court,
2615 | unless she or he is rendered unable to do so by some cause not
2616 | attributable to her or his own default or neglect, shall be
2617 | fined in a sum equal to the amount received from the purchaser,
2618 | and commits ~~shall be guilty of~~ a felony of the second degree,
2619 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2620 | Section 101. Paragraph (a) of subsection (3) of section
2621 | 916.107, Florida Statutes, is amended to read:

2622 | 916.107 Rights of forensic clients.--

2623 | (3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

2624 | (a) A client committed to the department pursuant to this
2625 | act shall be asked to give express and informed written consent
2626 | for treatment. If a client in a forensic facility refuses such
2627 | treatment as is deemed necessary by the client's
2628 | multidisciplinary treatment team at the forensic facility for
2629 | the appropriate care of the client and the safety of the client
2630 | or others, such treatment may be provided under the following
2631 | circumstances:

HB0111

2004
CS

2632 1. In an emergency situation in which there is immediate
 2633 danger to the safety of the client or others, such treatment may
 2634 be provided upon the written order of a physician for a period
 2635 not to exceed 48 hours, excluding weekends and legal holidays.
 2636 If, after the 48-hour period, the client has not given express
 2637 and informed consent to the treatment initially refused, the
 2638 administrator or designee of the forensic facility shall, within
 2639 48 hours, excluding weekends and legal holidays, petition the
 2640 committing court or the circuit court serving the county in
 2641 which the facility is located, at the option of the facility
 2642 administrator or designee, for an order authorizing the
 2643 continued treatment of the client. In the interim, treatment may
 2644 be continued without the consent of the client upon the
 2645 continued written order of a physician who has determined that
 2646 the emergency situation continues to present a danger to the
 2647 safety of the client or others.

2648 2. In a situation other than an emergency situation, the
 2649 administrator or designee of the forensic facility shall
 2650 petition the court for an order authorizing the treatment to the
 2651 client. The order shall allow such treatment for a period not to
 2652 exceed 90 days from the date of the entry of the order. Unless
 2653 the court is notified in writing that the client has provided
 2654 express and informed consent in writing or that the client has
 2655 been discharged by the committing court, the administrator or
 2656 designee shall, prior to the expiration of the initial 90-day
 2657 order, petition the court for an order authorizing the
 2658 continuation of treatment for another 90-day period. This

HB0111

2004
CS

2659 procedure shall be repeated until the client provides consent or
2660 is discharged by the committing court.

2661 3. At the hearing on the issue of whether the court should
2662 enter an order authorizing treatment for which a client has
2663 refused to give express and informed consent, the court shall
2664 determine by clear and convincing evidence that the client is
2665 mentally ill, retarded, or autistic as defined in this chapter,
2666 that the treatment not consented to is essential to the care of
2667 the client, and that the treatment not consented to is not
2668 experimental and does not present an unreasonable risk of
2669 serious, hazardous, or irreversible side effects. In arriving at
2670 the substitute judgment decision, the court must consider at
2671 least the following factors:

- 2672 a. The client's expressed preference regarding treatment;
- 2673 b. The probability of adverse side effects;
- 2674 c. The prognosis without treatment; and
- 2675 d. The prognosis with treatment.

2676
2677 The hearing shall be as convenient to the client as may be
2678 consistent with orderly procedure and shall be conducted in
2679 physical settings not likely to be injurious to the client's
2680 condition. The court may appoint a general or special magistrate
2681 ~~master~~ to preside at the hearing. The client or the client's
2682 guardian, and the representative, shall be provided with a copy
2683 of the petition and the date, time, and location of the hearing.
2684 The client has the right to have an attorney represent him or
2685 her at the hearing, and, if the client is indigent, the court
2686 shall appoint the office of the public defender to represent the

HB0111

2004
CS

2687 client at the hearing. The client may testify or not, as he or
2688 she chooses, and has the right to cross-examine witnesses and
2689 may present his or her own witnesses.

2690 Section 102. Subsection (11) of section 938.30, Florida
2691 Statutes, is amended to read:

2692 938.30 Financial obligations in criminal cases;
2693 supplementary proceedings.--

2694 (11) The court may refer any proceeding under this section
2695 to a special magistrate ~~master~~ who shall report findings and
2696 make recommendations to the court. The court shall act on such
2697 recommendations within a reasonable amount of time.

2698 Section 103. Subsection (3) of section 945.43, Florida
2699 Statutes, is amended to read:

2700 945.43 Admission of inmate to mental health treatment
2701 facility.--

2702 (3) PROCEDURE FOR HEARING ON TRANSFER OF AN INMATE FOR
2703 MENTAL HEALTH TREATMENT.--If the inmate does not waive a hearing
2704 or if the inmate or the inmate's representative files a petition
2705 for a hearing after having waived it, the court shall serve
2706 notice on the warden of the facility where the inmate is
2707 confined, the director, and the allegedly mentally ill inmate.
2708 The notice shall specify the date, time, and place of the
2709 hearing; the basis for the allegation of mental illness; and the
2710 names of the examining experts. The hearing shall be held within
2711 5 days, and the court may appoint a general or special
2712 magistrate ~~master~~ to preside. The hearing may be as informal as
2713 is consistent with orderly procedure. One of the experts whose
2714 opinion supported the recommendation shall be present at the

HB0111

2004
CS

2715 | hearing for information purposes. If, at the hearing, the court
2716 | finds that the inmate is mentally ill and in need of care and
2717 | treatment, it shall order that he or she be transferred to a
2718 | mental health treatment facility and provided appropriate
2719 | treatment. The court shall provide a copy of its order
2720 | authorizing transfer and all supporting documentation relating
2721 | to the inmate's condition to the warden of the treatment
2722 | facility. If the court finds that the inmate is not mentally
2723 | ill, it shall dismiss the petition for transfer.

2724 | Section 104. This act shall take effect October 1, 2004.