



1           1. A misdemeanor authorized for prosecution by the  
2 state attorney;

3           2. A violation of chapter 316 punishable by  
4 imprisonment;

5           3. Criminal contempt; or

6           4. A violation of a special law or county or municipal  
7 ordinance ancillary to a state charge, or if not ancillary to  
8 a state charge, only if the public defender contracts with the  
9 county or municipality to provide representation pursuant to  
10 ss. 27.54 and 125.69.

11  
12 The public defender shall not provide representation pursuant  
13 to this paragraph if the court, prior to trial, files in the  
14 cause an order of no imprisonment as provided in s. 27.512;

15           (c) Who is a child taken into custody for a felony, a  
16 misdemeanor, or criminal contempt, or who is facing  
17 delinquency proceedings under chapter 985 ~~Alleged to be a~~  
18 ~~delinquent child pursuant to a petition filed~~ before a circuit  
19 court;

20           (d) Sought by petition filed in such court to be  
21 involuntarily placed as a mentally ill person under part I of  
22 chapter 394, involuntarily committed as a sexually violent  
23 predator under part V of chapter 394, or involuntarily  
24 admitted to residential services as a person with  
25 developmental disabilities under chapter 393. A public  
26 defender shall not represent any plaintiff in a civil action  
27 brought under the Florida Rules of Civil Procedure, the  
28 Federal Rules of Civil Procedure, or the federal statutes, or  
29 represent a petitioner in a rule challenge under chapter 120,  
30 unless specifically authorized by statute;

31

1 (e) Convicted and sentenced to death, for purposes of  
2 handling an appeal to the Supreme Court; or

3 (f) Is appealing a matter in a case arising under  
4 paragraphs (a)-(d).

5 (2) Except as provided in s. 985.203, the court may  
6 not appoint the public defender to represent, even on a  
7 temporary basis, any person who is not indigent. The court,  
8 however, may appoint private counsel in capital cases as  
9 provided in ss. 27.40 and 27.5303.

10 Section 2. Subsection (6) of section 27.52, Florida  
11 Statutes, is amended to read:

12 27.52 Determination of indigent status.--

13 (6) A nonindigent parent or legal guardian of an  
14 applicant who is a minor or an adult tax-dependent person  
15 shall furnish the minor or adult tax-dependent person with the  
16 necessary legal services and costs incident to a delinquency  
17 proceeding or, upon transfer of such person for criminal  
18 prosecution as an adult pursuant to chapter 985, a criminal  
19 prosecution, in which the person has a right to legal counsel  
20 under the Constitution of the United States or the  
21 Constitution of the State of Florida. The failure of a parent  
22 or legal guardian to furnish legal services and costs under  
23 this section does not bar the appointment of legal counsel  
24 pursuant to this section, s. 27.40, or s. 27.5303. When the  
25 public defender, a special assistant public defender appointed  
26 pursuant to s. 27.53(2), or a private attorney is appointed to  
27 represent a minor or an adult tax-dependent person in any  
28 proceeding in circuit court or in a criminal proceeding in any  
29 other court, the parents or the legal guardian shall be liable  
30 for payment of the fees, charges, and costs of the  
31 representation even if the person is a minor being tried as an

1 adult. Liability for the fees, charges, and costs of the  
2 representation shall be imposed in the form of a lien against  
3 the property of the nonindigent parents or legal guardian of  
4 the minor or adult tax-dependent person. The lien shall be  
5 enforceable as provided in s. 27.561 or s. 938.29.

6 Section 3. Subsections (1) and (2) of section 985.203,  
7 Florida Statutes, are amended to read:

8 985.203 Right to counsel.--

9 (1) A child is entitled to representation by legal  
10 counsel at all stages of any proceedings under this part. If  
11 the child and the parents or other legal guardian are indigent  
12 and unable to employ counsel for the child, the court shall  
13 appoint counsel pursuant to s. 27.52. Determination of  
14 indigence and costs of representation shall be as provided by  
15 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~  
16 ~~exercises the right to counsel~~ shall be allowed to provide  
17 advice and counsel to the child at any time subsequent to the  
18 child's arrest, including prior to a detention hearing while  
19 in secure detention care. A child shall be represented by  
20 legal counsel at all stages of all court proceedings unless  
21 the right to counsel is freely, knowingly, and intelligently  
22 waived by the child after the child has been given a  
23 meaningful opportunity to confer with counsel. If the child  
24 appears without counsel, the court shall advise the child of  
25 his or her rights with respect to representation of  
26 court-appointed counsel.

27 (2) If the parents or legal guardian of an indigent  
28 child are not indigent but refuse to employ counsel, the court  
29 shall appoint counsel pursuant to s. 27.52 to represent the  
30 child at the detention hearing and until counsel is provided.  
31 Costs of representation are hereby imposed as provided by ss.

1 27.52 and 938.29. Thereafter, the court shall not appoint  
2 counsel for an indigent child with nonindigent parents or  
3 legal guardian but shall order the parents or legal guardian  
4 to obtain private counsel. A parent or legal guardian of an  
5 indigent child who has been ordered to obtain private counsel  
6 for the child and who willfully fails to follow the court  
7 order shall be punished by the court in civil contempt  
8 proceedings. If the parent or legal guardian is also the  
9 alleged victim in the case, the court may not order the parent  
10 or guardian to obtain private counsel but shall appoint  
11 counsel pursuant to s. 27.52 to represent the indigent child.  
12 At the disposition and upon a finding by the court that the  
13 parent or legal guardian is a victim of the offense, the  
14 parent or legal guardian shall not be liable for fees,  
15 charges, or costs under s. 27.52, s. 938.29, or this chapter.

16 Section 4. This act shall take effect July 1, 2005.

17  
18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
19 COMMITTEE SUBSTITUTE FOR  
20 Senate Bill 1218

- 21 - The CS expands the authority of the public defender to  
22 represent an indigent youth who is "taken into custody  
23 for a felony, a misdemeanor, or criminal contempt, or who  
24 is facing delinquency proceedings under chapter 985,  
25 F.S."  
26 - In addition, the CS provides that a youth may only waive  
27 the right to counsel after he or she has been given a  
28 meaningful opportunity to confer with counsel.  
29 - The CS also provides that if the court makes a finding  
30 that the parent or legal guardian is a victim of the  
31 offense, they will not be held liable for paying court  
fees and costs.