

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.  
.
.  
.

1 Representative(s) Kottkamp offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove line(s) 320-484 and insert:

5 (3) In utilizing a registry:

6 (a) Each circuit Article V indigent services committee  
7 shall compile and maintain a list of attorneys in private  
8 practice, by county and by category of cases. From October 1,  
9 2005, through September 30, 2007, the list of attorneys compiled  
10 by the Eleventh Judicial Circuit shall provide the race, gender,  
11 and national origin of assigned attorneys. To be included on a  
12 registry, attorneys shall certify that they meet any minimum  
13 requirements established in general law for court appointment,  
14 are available to represent indigent defendants in cases  
15 requiring court appointment of private counsel, and are willing

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

16 | to abide by the terms of the contract for services. To be  
17 | included on a registry, an attorney also must enter into a  
18 | contract for services with the Justice Administrative  
19 | Commission. Failure to comply with the terms of the contract for  
20 | services may result in termination of the contract and removal  
21 | from the registry. Each attorney on the registry shall be  
22 | responsible for notifying the circuit Article V indigent  
23 | services committee and the Justice Administrative Commission of  
24 | any change in his or her status. Failure to comply with this  
25 | requirement shall be cause for termination of the contract for  
26 | services and removal from the registry until the requirement is  
27 | fulfilled.

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

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

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

42 (d) Quarterly, ~~beginning no later than October 1, 2004,~~  
43 each circuit Article V indigent services committee shall provide  
44 a current copy of each registry to the Chief Justice of the  
45 Supreme Court, the chief judge, the state attorney and public  
46 defender in each judicial circuit, and the clerk of court in  
47 each county, the Justice Administrative Commission, and the  
48 Indigent Services Advisory Board with a current copy of each  
49 registry. From October 1, 2005, through September 30, 2007, the  
50 report submitted by the Eleventh Judicial Circuit shall include  
51 the race, gender, and national origin of all attorneys listed in  
52 and appointed under the registry.

53 (5) The Justice Administrative Commission shall approve  
54 uniform contract forms for use in procuring the services of  
55 private court-appointed counsel and uniform procedures and forms  
56 for use by a court-appointed attorney in support of billing for  
57 attorney's fees, costs, and related expenses to demonstrate the  
58 attorney's completion of specified duties.

59 (7)(a) An attorney appointed to represent a defendant or  
60 other client is entitled to payment pursuant to s. 27.5304, only  
61 upon full performance by the attorney of specified duties,  
62 approval of payment by the court, except for payment based on a  
63 flat fee per case as provided in s. 27.5304; and attorney  
64 submission of a payment request to the Justice Administrative  
65 Commission. Upon being permitted to withdraw from a case, a  
66 court-appointed attorney shall submit a copy of the order to the  
67 Justice Administrative Commission at the time it is issued by  
68 the court. If an attorney is permitted to withdraw or is

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

69 otherwise removed from representation prior to full performance  
70 of the duties specified in this section for reasons other than  
71 breach of duty, the trial court shall approve payment of  
72 attorney's fees and costs for work performed in an amount not to  
73 exceed the amounts specified in s. 27.5304. Withdrawal from a  
74 case prior to full performance of the duties specified shall  
75 create a rebuttable presumption that the attorney is not  
76 entitled to the entire flat fee for those cases paid on a flat-  
77 fee-per-case basis.

78 (b) The attorney shall maintain appropriate documentation,  
79 including a current and detailed hourly accounting of time spent  
80 representing the defendant or other client. These records and  
81 documents are subject to review by the Justice Administrative  
82 Commission, subject to the attorney-client privilege and work  
83 product privilege.

84 Section 2. Section 27.42, Florida Statutes, is amended to  
85 read:

86 27.42 Circuit Article V indigent services committees;  
87 composition; staff; responsibilities; funding.--

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

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

93 (b) The public defender of the judicial circuit, or  
94 designee from within the office of the public defender.

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

95 (c) One experienced private criminal defense attorney  
96 appointed by the chief judge to serve a 2-year term. During the  
97 2-year term, the attorney is prohibited from serving as court-  
98 appointed counsel.

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

102 (2)(a) The responsibility of the circuit Article V  
103 indigent services committee is to manage the appointment and  
104 compensation of court-appointed counsel within a circuit  
105 pursuant to ss. 27.40 and 27.5303. The committee shall also set  
106 the compensation rates of due-process service providers in cases  
107 where the court has appointed counsel or declared a person  
108 indigent for costs, not to exceed any rates specified in the  
109 General Appropriations Act such that the total amount expended  
110 does not exceed the amount budgeted in the General  
111 Appropriations Act for the particular due-process service. The  
112 circuit Article V indigent services committee shall meet at  
113 least quarterly.

114 (b) ~~No later than October 1, 2004,~~ Each circuit Article V  
115 indigent services committee shall maintain a registry pursuant  
116 to s. 27.40, even when procuring counsel through a competitive  
117 bidding process. However, if counsel is procured through a  
118 competitive bidding process, the registry shall be used only  
119 when counsel obtained through that process is unable to provide  
120 representation due to a conflict of interest or reasons beyond

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

121 their control. The committee shall apply any eligibility and  
122 performance standards set by the Legislature.

123 (c) Each circuit Article V indigent services committee  
124 shall develop a schedule of standard fees and expense allowances  
125 for the categories of cases specified in s. 27.5304 ~~27.5303~~,  
126 consistent with the overall compensation rates in that section  
127 and within the amount of appropriated funds allocated by the  
128 Justice Administrative Commission to the circuit for this  
129 purpose.

130 (d) Each circuit Article V indigent services committee  
131 shall establish a schedule of standard allowances for due-  
132 process expenses for cases in which the court has declared a  
133 person indigent for costs, within the amount of appropriated  
134 funds allocated by the Justice Administrative Commission to the  
135 circuit for this purpose.

136 (3) Notwithstanding any other provision of this section, a  
137 circuit Article V indigent services committee may approve, and  
138 the Justice Administrative Commission shall investigate and  
139 evaluate the use of funds for, alternate models for the  
140 provision of criminal and civil due-process services and  
141 representation other than a model based on a per-case fee if a  
142 more cost-effective and efficient system can be provided. An  
143 alternate model may include court-reporting services and the  
144 provision of court-appointed counsel.

145 (4)~~(3)~~ The Justice Administrative Commission shall prepare  
146 and issue on a quarterly basis a statewide report comparing  
147 actual year-to-date expenditures to budgeted amounts for the

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

148 circuit Article V indigent services committees in each of the  
149 judicial circuits. Copies of these quarterly reports shall be  
150 distributed to each circuit Article V indigent services  
151 committee and to the Governor, the Chief Justice of the Supreme  
152 Court, the President of the Senate, and the Speaker of the House  
153 of Representatives.

154 ~~(5)~~(4)(a) The funding and positions for the processing of  
155 committees' fees and expenses shall be as appropriated to the  
156 Justice Administrative Commission in the General Appropriations  
157 Act.

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

163 (c) Funds for attorney's fees and expenses for child  
164 dependency and civil conflict cases shall be appropriated by the  
165 Legislature in a separate appropriations category within the  
166 Justice Administrative Commission.

167 (d) Any funds the Legislature appropriates for other  
168 court-appointed counsel cases shall be as appropriated within  
169 the Justice Administrative Commission.

170  
171 The Justice Administrative Commission shall separately track  
172 expenditures on private court-appointed counsel for the  
173 following categories of cases: criminal conflict, civil  
174 conflict, dependency and termination of parental rights, and

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

175 guardianship. From October 1, 2005, through September 30, 2007,  
176 the Justice Administrative Commission shall also track and issue  
177 a report on the race, gender, and the national origin of private  
178 court-appointed counsel for the Eleventh Judicial Circuit.

179 Section 3. Pilot projects; conflict attorneys.--Pursuant  
180 to s. 14, Art. V, and s. 25, Art. XII of the State Constitution,  
181 and s. 27.52, Florida Statutes, and notwithstanding s. 925.037,  
182 Florida Statutes, pilot projects are created to reimburse three  
183 counties for reasonable and necessary conflict counsel fees,  
184 expenses, and costs. The counties designated for the pilot  
185 projects must institute cost containment and accountability  
186 processes and provide a detailed quarterly report to the  
187 Governor, the President of the Senate, the Speaker of the House  
188 of Representatives, and the Joint Legislative Committee on  
189 Article V. The report shall include, but is not limited to:

190 (1) The total number of conflict cases;

191 (2) The steps that were taken to avoid the conflict, if  
192 any;

193 (3) The number of each type of case identified with  
194 specificity;

195 (4) The length of each case;

196 (5) The total amount paid to each attorney;

197 (6) The total year-to-date payments to conflict attorneys;  
198 and

199 (7) The method of payment, for example, hourly rate, flat  
200 fee, contract, or other method of payment,  
201

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

202 and in the Eleventh Judicial Circuit, for a 2-year period, the  
 203 report shall also include race, gender, and national origin  
 204 classification of all private conflict attorneys. All  
 205 information must be broken down based on whether the case was  
 206 given to outside counsel due to an ethical conflict or due to an  
 207 overextended caseload.

208

209 ===== T I T L E A M E N D M E N T =====

210 Remove line(s) 7-23 and insert:  
 211 27.40, F.S., relating to circuit registries for court-appointed  
 212 counsel; requiring that a list of attorneys compiled by the  
 213 Eleventh Judicial Circuit provide certain information on  
 214 assigned attorneys; requiring that an attorney enter into a  
 215 contract to be included on the registry; revising requirements  
 216 for private court-appointed counsel; specifying certain  
 217 information relating to attorneys listed in a registry to be  
 218 contained in a report by the Eleventh Judicial Circuit;  
 219 requiring the Justice Administrative Commission to approve  
 220 uniform procedures and forms for use in billing for attorney's  
 221 fees, costs, and related expenses; requiring that a withdrawal  
 222 order be filed with the commission; revising fee payment  
 223 provisions; providing that withdrawal from a case creates a  
 224 rebuttable presumption of nonentitlement to the entire flat fee;  
 225 amending s. 27.42, F.S.; requiring the circuit Article V  
 226 indigent services committee to establish the compensation rates  
 227 for court-appointed counsel or in cases of indigency; requiring  
 228 each committee to establish a schedule of allowances for due-

653439

4/28/2005 8:57:57 AM

Amendment No. (for drafter's use only)

229 process expenses; authorizing alternate models for providing  
230 criminal and civil due-process representation; requiring the  
231 Justice Administrative Commission to track and issue a report  
232 containing certain information on court-appointed counsel for  
233 the Eleventh Judicial Circuit; creating pilot projects to  
234 reimburse certain counties for certain counsel fees, expenses,  
235 and costs; requiring the counties to institute const containment  
236 and accountability processes and report to the Governor and  
237 Legislature; providing report requirements;

653439

4/28/2005 8:57:57 AM