

By Senator Smith

14-1123C-05

1                                   A bill to be entitled  
2           An act relating to the state judicial system;  
3           amending s. 27.34, F.S.; requiring negotiated  
4           rates of reimbursement; amending s. 27.40,  
5           F.S., relating to circuit registries for  
6           court-appointed counsel; requiring that an  
7           attorney enter into a contract to be included  
8           on the registry; requiring data on the race,  
9           sex, and ethnicity of attorneys; requiring the  
10          Justice Administrative Commission to approve  
11          uniform procedures and forms for use in billing  
12          for an attorney's fees, costs, and related  
13          expenses; requiring that a withdrawal order be  
14          filed with the commission; providing that  
15          withdrawal from a case creates a rebuttable  
16          presumption of nonentitlement to the entire  
17          flat fee; amending s. 27.42, F.S.; requiring  
18          that the circuit Article V indigent services  
19          committee establish the compensation rates for  
20          court-appointed counsel or in cases of  
21          indigency; requiring each committee to  
22          establish a schedule of allowances for  
23          due-process expenses; authorizing alternate  
24          models for providing criminal and civil  
25          due-process representation; requiring that the  
26          expenses for representing indigent persons be  
27          appropriated in a separate category within the  
28          Justice Administrative Commission rather than  
29          paid from funds appropriated for use by the  
30          public defenders; requiring the commission to  
31          track and report data on the race, sex, and

1 ethnicity of private court-appointed counsel;  
2 amending s. 27.52, F.S., relating to the  
3 determination of indigent status; providing for  
4 application to the clerk of court for such a  
5 determination and appointment of a public  
6 defender; prescribing duties of the clerk and  
7 the public defender relating to an application;  
8 prescribing application requirements and review  
9 criteria; providing for review by the court of  
10 a clerk's determination; authorizing the court  
11 to determine a person indigent for costs and  
12 eligible for payment of due-process expenses;  
13 requiring certain parents or legal guardians to  
14 furnish legal services and costs; providing for  
15 a reevaluation of indigent status and referral  
16 to the state attorney upon evidence of  
17 financial discrepancies or fraud; providing  
18 criminal penalties for the provision of false  
19 information; amending s. 27.5304, F.S.;  
20 authorizing the Justice Administrative  
21 Commission to pay attorney's fees without court  
22 approval under certain conditions; requiring  
23 the attorney to provide the commission with  
24 advance notice of a court hearing on payment of  
25 fees and costs; authorizing the commission to  
26 participate in such hearings telephonically;  
27 specifying intervals other than final  
28 disposition of a case at which private  
29 court-appointed counsel may request payment;  
30 clarifying a prohibition against allowing an  
31 attorney who is not on the registry to appear;

1 limiting the reimbursement allowed for the  
2 preparation of invoices; amending s. 27.54,  
3 F.S.; requiring that the county or municipality  
4 pay certain costs for due-process services;  
5 prescribing assessment of fees to recover such  
6 costs; requiring negotiated rates of  
7 reimbursement; requiring that reimbursements  
8 received by the public defender be returned to  
9 the fund from which the expenditure was made;  
10 amending s. 28.24, F.S.; requiring that the  
11 clerk of the court provide copies to attorneys  
12 ad litem and court-appointed counsel paid by  
13 the state; requiring clerks of the court to  
14 participate in the Comprehensive Case  
15 Information System by a certain date; providing  
16 an exception to the designation of the clerk of  
17 court as custodian of official records;  
18 amending s. 28.2402, F.S.; prohibiting the  
19 circuit court from charging a county or  
20 municipality more than one filing fee for a  
21 single filing containing multiple allegations;  
22 exempting enforcement actions of local code  
23 violations from the filing fee; amending s.  
24 28.241, F.S.; providing for the clerk of the  
25 court to collect a service fee for appeals from  
26 circuit court; amending s. 28.245, F.S.;  
27 requiring that the clerks of the court remit  
28 collections to the Department of Revenue within  
29 a specified period; amending s. 28.246, F.S.;  
30 conforming a reference; revising provisions  
31 authorizing an individual to enter into a

1 payment plan for the payment of fees, costs, or  
2 fines; providing for the court to review the  
3 payment plan; amending s. 28.345, F.S.;  
4 exempting certain court staff, attorneys ad  
5 litem, and court-appointed counsel from the  
6 payment of fees and charges assessed by the  
7 clerk of the circuit court; amending s. 28.35,  
8 F.S.; requiring the Florida Clerks of Court  
9 Operations Committee to report on additional  
10 budget funding authority provided to a clerk;  
11 amending s. 28.36, F.S.; revising the date for  
12 the county clerk to submit a proposed budget;  
13 conforming a reference to the Florida Clerks of  
14 Court Operations Corporation; authorizing the  
15 corporation to approve additional annual  
16 funding for a clerk under prescribed  
17 conditions; requiring notice and documentation;  
18 amending s. 29.004, F.S.; providing for state  
19 appropriations to be used for expert witnesses  
20 who are appointed by the court rather than  
21 requested by any party; amending s. 29.007,  
22 F.S.; providing for state funds to be used in  
23 providing mental health professionals in  
24 certain civil cases; clarifying the use of  
25 state funds at the trial or appellate level to  
26 pay certain costs on behalf of a litigant who  
27 is indigent; amending s. 29.008, F.S.;  
28 requiring that the county where the appellate  
29 district is located fund the appellate division  
30 of the public defender's office; expanding the  
31 definition of the term "facility" to include

1 items necessary for court-reporting services;  
2 narrowing a limitation on the application of  
3 certain requirements to specified facilities;  
4 including hearing rooms within those facilities  
5 funded by the county as a court-related  
6 function; including audio equipment within  
7 county-funded communications services; amending  
8 s. 29.015, F.S.; authorizing the Justice  
9 Administrative Commission to transfer funds to  
10 address budget deficits relating to due-process  
11 services; requiring notice of the transfer;  
12 amending s. 29.018, F.S.; eliminating the  
13 authority for court-appointed counsel to  
14 contract to share in court and due-process  
15 costs; providing that the Justice  
16 Administrative Commission may contract for such  
17 cost-sharing on behalf of court-appointed  
18 counsel; creating s. 29.0185, F.S.; specifying  
19 conditions under which state-funded due-process  
20 services are provided; amending s. 34.045,  
21 F.S.; prohibiting the county court from  
22 charging a county or municipality more than one  
23 filing fee for a single filing containing  
24 multiple allegations; exempting certain  
25 enforcement actions of local code violations  
26 from the filing fee; expanding conditions under  
27 which the county or municipality is the  
28 prevailing party; requiring an assessment for a  
29 filing fee; amending s. 34.191, F.S.;  
30 clarifying a requirement that certain fines and  
31 forfeitures committed within an unincorporated

1 area of a municipality be paid to the clerk of  
2 the county court; amending s. 39.0132, F.S.;  
3 authorizing the Justice Administrative  
4 Commission to inspect certain court records;  
5 amending s. 39.821, F.S.; requiring that the  
6 Guardian Ad Litem Program rather than the chief  
7 judge request the federal criminal records  
8 check for purposes of certifying guardians ad  
9 litem; amending s. 39.822, F.S.; directing  
10 agencies, persons, and other organizations to  
11 provide a guardian ad litem access to certain  
12 records related to the best interests of a  
13 child; amending s. 40.29, F.S.; clarifying  
14 procedures for the payments made by the state  
15 to the clerk of the court for the costs of  
16 witnesses; creating s. 40.355, F.S.; requiring  
17 the clerk of the court to report on, and refund  
18 to the state attorneys and public defenders,  
19 certain moneys collected for payment of jurors  
20 and due-process costs; amending s. 43.16, F.S.;  
21 providing that the Justice Administrative  
22 Commission is not subject to the Administrative  
23 Procedure Act; amending s. 44.102, F.S.;  
24 revising conditions under which nonvolunteer  
25 court mediators may be compensated by the  
26 county or parties; amending s. 44.108, F.S.;  
27 clarifying the fees charged for scheduled  
28 mediation services provided by a circuit  
29 court's mediation program; requiring the clerk  
30 of the court to report to the chief judge the  
31 amount of such fees collected; creating s.

1 57.082, F.S., relating to the determination of  
2 civil indigent status; providing for  
3 application to the clerk of court for such a  
4 determination; prescribing duties of the clerk  
5 relating to an application; prescribing  
6 application requirements and review criteria;  
7 providing for an interim determination by the  
8 court and appointment of counsel; providing for  
9 review by the court of the clerk's  
10 determination; providing for enrollment in a  
11 payment plan by a person determined indigent;  
12 providing for the waiver of fees and costs  
13 under certain conditions; providing for  
14 reevaluation of indigent status and referral to  
15 the state attorney upon evidence of financial  
16 discrepancies or fraud; providing criminal  
17 penalties for providing false information;  
18 creating s. 61.1828, F.S.; authorizing certain  
19 county child support enforcement agencies to  
20 receive court services under specified  
21 conditions; prohibiting imposition of fees and  
22 bonds for such agencies; amending s. 92.142,  
23 F.S.; deleting a provision that provides for  
24 payment of per diem and travel expenses for a  
25 witness in a criminal case at the discretion of  
26 the court; amending s. 116.01, F.S.; providing  
27 procedures for the clerk of the court to remit  
28 funds to the Department of Revenue; amending s.  
29 119.07, F.S.; extending the time period during  
30 which certain social security numbers and other  
31 data included in court or official county

1 records may be available for public inspection  
2 unless redaction is requested; extending the  
3 deadline by which court clerks and county  
4 recorders must keep such data confidential;  
5 amending s. 142.01, F.S.; clarifying those  
6 moneys to be included within the fine and  
7 forfeiture fund of the clerk of the circuit  
8 court; amending s. 213.13, F.S.; requiring that  
9 the funds remitted by the clerk to the state be  
10 transmitted electronically within a specified  
11 period; amending s. 219.07, F.S.; clarifying  
12 the distributions that the clerk is required to  
13 make as part of his or her court-related  
14 functions; amending s. 219.075, F.S.; exempting  
15 funds collected by the clerk from the  
16 requirements for the investment of surplus  
17 funds of a county; amending s. 318.121, F.S.;  
18 clarifying that certain court costs and  
19 surcharges are added to civil traffic  
20 penalties; amending s. 318.18, F.S.; requiring  
21 that the clerk of the court report the amount  
22 of certain surcharges collected to the chief  
23 judge, the Governor, and the Legislature;  
24 amending s. 318.21, F.S.; providing for the  
25 disposition of traffic-infraction penalties for  
26 violations occurring in unincorporated areas of  
27 certain municipalities having a consolidated  
28 government; amending s. 318.31, F.S.; deleting  
29 provisions concerning the appointment of a  
30 civil traffic infraction hearing officer;  
31 amending s. 318.325, F.S.; deleting provisions



1 specifying the funding of such hearing officer;  
2 amending s. 322.29, F.S.; increasing the fees  
3 charged for reinstating a driver's license;  
4 amending s. 372.72, F.S.; requiring that the  
5 proceeds from unclaimed bonds be deposited into  
6 the clerk's fine and forfeiture fund; amending  
7 s. 903.26, F.S.; revising the procedure for  
8 determining the amount of the costs incurred in  
9 returning a defendant to the county of  
10 jurisdiction; amending s. 903.28, F.S.;  
11 revising certain notice requirements following  
12 the surrender or apprehension of a defendant  
13 for purposes of remission of a forfeiture;  
14 authorizing the clerk of the circuit court to  
15 enter into certain contracts for purposes of  
16 representation in an action for the remission  
17 of a forfeiture; providing that the clerk is  
18 the real party in interest for all appeals  
19 arising from such an action; amending s.  
20 916.115, F.S.; providing requirements for the  
21 payment of experts; specifying those fees which  
22 are paid by the state, the office of the public  
23 defender, the office of the state attorney, or  
24 the Justice Administrative Commission; amending  
25 s. 916.12, F.S.; revising the procedures under  
26 which the court may take action following a  
27 finding that the defendant is incompetent to  
28 proceed; amending s. 916.301, F.S.; requiring  
29 the court to pay for certain court-appointed  
30 retardation and autism experts; amending s.  
31 938.29, F.S.; providing for a judgment lien for

1 the payment of certain attorney's fees to be  
2 filed without cost; amending s. 939.06, F.S.;  
3 clarifying that an acquitted defendant is not  
4 liable for certain fees; providing a procedure  
5 for such a defendant to request a refund from  
6 the Justice Administrative Commission of costs  
7 or fees paid; amending s. 985.05, F.S.;  
8 authorizing the Justice Administrative  
9 Commission to have access to certain court  
10 records; requiring that the party calling a  
11 witness in traffic court bear the costs;  
12 requiring that the office of the state attorney  
13 pay such costs if the witness is required to  
14 testify on behalf of the prosecution;  
15 authorizing the trial court administrator to  
16 recover expenditures for state-funded services  
17 if those services were furnished to a user  
18 possessing the ability to pay; requiring that  
19 the chief judge determine the rate, which may  
20 not exceed the cost of the service and  
21 recovery; repealing s. 29.005(4), F.S.,  
22 relating to prosecution expenses for appointing  
23 mental health professionals; repealing s.  
24 318.37, F.S., relating to funding for a Civil  
25 Traffic Infraction Hearing Officer Program;  
26 providing an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:  
29

30 Section 1. Subsection (1) of section 27.34, Florida  
31 Statutes, is amended to read:

1           27.34 Limitations on payment of salaries and other  
2 related costs of state attorneys' offices other than by the  
3 state.--

4           (1) A county or municipality may contract with, or  
5 appropriate or contribute funds to the operation of, the  
6 various state attorneys as provided in this subsection. A  
7 state attorney prosecuting violations of special laws or  
8 county or municipal ordinances punishable by incarceration and  
9 not ancillary to a state charge shall contract with counties  
10 and municipalities to recover the full cost of services  
11 rendered on an hourly basis or reimburse the state for the  
12 full cost of assigning one or more full-time equivalent  
13 attorney positions to work on behalf of the county or  
14 municipality. Notwithstanding any other provision of law, in  
15 the case of a county with a population of less than 75,000,  
16 the state attorney shall contract for full reimbursement, or  
17 for reimbursement as the parties otherwise agree.

18           (a) A contract for reimbursement on an hourly basis  
19 shall require counties and municipalities to reimburse the  
20 state attorney for services rendered at a negotiated rate not  
21 exceeding of \$50 per hour. ~~If an hourly rate is specified in~~  
22 ~~the General Appropriations Act, that rate shall control.~~

23           (b) A contract for assigning one or more full-time  
24 equivalent attorney positions to perform work on behalf of a  
25 county or municipality shall assign one or more full-time  
26 equivalent positions based on estimates by the state attorney  
27 of the number of hours required to handle the projected  
28 workload. The full cost of each full-time equivalent attorney  
29 position on an annual basis shall be the negotiated hourly  
30 rate ~~\$50, or the amount specified in the General~~  
31 ~~Appropriations Act,~~ multiplied by the legislative budget

1 request standard for available work hours for one full-time  
2 equivalent attorney position, or, in the absence of that  
3 standard, 1,854 hours. The contract may provide for funding  
4 full-time equivalent positions in one-quarter increments.

5 (c) Persons employed by the county or municipality may  
6 be provided to the state attorney to serve as special  
7 investigators pursuant to the provisions of s. 27.251.

8 (d) Any payments received under ~~pursuant to~~ this  
9 subsection shall be deposited into the Grants and Donations  
10 Trust Fund within the Justice Administrative Commission for  
11 use appropriation by the state attorney legislature.

12 Section 2. Subsections (2), (3), (5), and (7) of  
13 section 27.40, Florida Statutes, are amended to read:

14 27.40 Court-appointed counsel; circuit registries;  
15 minimum requirements; appointment by court.--

16 (2) ~~No later than October 1, 2004,~~ Private counsel  
17 appointed by the court to provide representation shall be  
18 selected from a registry established by the circuit Article V  
19 indigent services committee or procured through a competitive  
20 bidding process.

21 (3) In utilizing a registry:

22 (a) Each circuit Article V indigent services committee  
23 shall compile and maintain a list of attorneys in private  
24 practice; ~~7~~ by county by race, sex, and ethnicity of the  
25 assigned attorneys; and by category of cases. To be included  
26 on a registry, attorneys shall certify that they meet any  
27 minimum requirements established in general law for court  
28 appointment, are available to represent indigent defendants in  
29 cases requiring court appointment of private counsel, and are  
30 willing to abide by the terms of the contract for services. To  
31 be included on a registry, an attorney also must enter into a

1 contract for services with the Justice Administrative  
2 Commission. Failure to comply with the terms of the contract  
3 for services may result in termination of the contract and  
4 removal from the registry. Each attorney on the registry shall  
5 be responsible for notifying the circuit Article V indigent  
6 services committee of any change in his or her status. Failure  
7 to comply with this requirement shall be cause for termination  
8 of the contract for services and removal from the registry  
9 until the requirement is fulfilled.

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

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

24 (d) Quarterly, ~~beginning no later than October 1,~~  
25 ~~2004,~~ each circuit Article V indigent services committee shall  
26 provide the Chief Justice of the Supreme Court, the chief  
27 judge, the state attorney, and public defender in each  
28 judicial circuit, and the clerk of court in each county with a  
29 current copy of each registry. The copy of a registry shall  
30 identify the race, sex, and ethnicity of each attorney listed  
31 in the registry.

1           (5) The Justice Administrative Commission shall  
2 approve uniform contract forms for use in procuring the  
3 services of private court-appointed counsel and uniform  
4 procedures and forms for use by a court-appointed attorney in  
5 support of billing for attorney's fees, costs, and related  
6 expenses to demonstrate the attorney's completion of specified  
7 duties.

8           (7)(a) An attorney appointed to represent a defendant  
9 or other client is entitled to payment pursuant to s. 27.5304,  
10 only upon full performance by the attorney of specified  
11 duties; ~~approval of payment by the court,~~ except for payment  
12 based on a flat fee per case as provided in s. 27.5304; and  
13 attorney submission of a payment request to the Justice  
14 Administrative Commission. Upon being permitted to withdraw  
15 from a case, a court-appointed attorney shall submit a copy of  
16 the order to the Justice Administrative Commission at the time  
17 it is issued by the court. If an attorney is permitted to  
18 withdraw or is otherwise removed from representation prior to  
19 full performance of the duties specified in this section for  
20 reasons other than breach of duty, the trial court shall  
21 approve payment of attorney's fees and costs for work  
22 performed in an amount not to exceed the amounts specified in  
23 s. 27.5304. Withdrawal from a case prior to full performance  
24 of the duties specified shall create a rebuttable presumption  
25 that the attorney is not entitled to the entire flat fee for  
26 those cases paid on a flat-fee-per-case basis.

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

31

1 Section 3. Section 27.42, Florida Statutes, is amended  
2 to read:

3 27.42 Circuit Article V indigent services committees;  
4 composition; staff; responsibilities; funding.--

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

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

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

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

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

20 (2)(a) The responsibility of the circuit Article V  
21 indigent services committee is to manage the appointment and  
22 compensation of court-appointed counsel within a circuit  
23 pursuant to ss. 27.40 and 27.5303. The committee shall also  
24 set the compensation rates of due-process service providers in  
25 cases where the court has appointed counsel or declared a  
26 person indigent for costs. The circuit Article V indigent  
27 services committee shall meet at least quarterly.

28 (b) ~~No later than October 1, 2004,~~ Each circuit  
29 Article V indigent services committee shall maintain a  
30 registry pursuant to s. 27.40, even when procuring counsel  
31 through a competitive bidding process. However, if counsel is

1 | procured through a competitive bidding process, the registry  
2 | shall be used only when counsel obtained through that process  
3 | is unable to provide representation due to a conflict of  
4 | interest or reasons beyond their control. The committee shall  
5 | apply any eligibility and performance standards set by the  
6 | Legislature.

7 |       (c) Each circuit Article V indigent services committee  
8 | shall develop a schedule of standard fees and expense  
9 | allowances for the categories of cases specified in s. 27.5304  
10 | ~~s. 27.5303~~, consistent with the overall compensation rates in  
11 | that section and within the amount of appropriated funds  
12 | allocated by the Justice Administrative Commission to the  
13 | circuit for this purpose.

14 |       (d) Each circuit Article V indigent services committee  
15 | shall establish a schedule of standard allowances for  
16 | due-process expenses for cases in which the court has declared  
17 | a person indigent for costs, within the amount of appropriated  
18 | funds allocated by the Justice Administrative Commission to  
19 | the circuit for this purpose.

20 |       (3) Notwithstanding any provision of this section to  
21 | the contrary, a circuit Article V indigent services committee  
22 | may approve, and the Justice Administrative Commission may  
23 | expend funds for, alternate models for the provision of  
24 | criminal and civil due-process services and representation  
25 | other than a model based on a per-case fee if a more  
26 | cost-effective and efficient system can be provided. An  
27 | alternate model may include court-reporting services and the  
28 | provision of court-appointed counsel.

29 |       ~~(4)(3)~~ The Justice Administrative Commission shall  
30 | prepare and issue on a quarterly basis a statewide report  
31 | comparing actual year-to-date expenditures to budgeted amounts



1 for the circuit Article V indigent services committees in each  
2 of the judicial circuits. Copies of these quarterly reports  
3 shall be distributed to each circuit Article V indigent  
4 services committee and to the Governor, the Chief Justice of  
5 the Supreme Court, the President of the Senate, and the  
6 Speaker of the House of Representatives.

7 ~~(5)(4)~~(a) The funding and positions for the processing  
8 of committees' fees and expenses shall be as appropriated to  
9 the Justice Administrative Commission in the General  
10 Appropriations Act.

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

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

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

23 (e) Funds for due-process expenses in cases in which  
24 the court has declared a person indigent for costs shall be  
25 appropriated by the Legislature in a separate appropriations  
26 category within the Justice Administrative Commission. These  
27 expenses may not be paid from funds appropriated for use by  
28 the public defenders.

29  
30 The Justice Administrative Commission shall separately track  
31 expenditures on private court-appointed counsel for the

1 following categories of cases: criminal conflict, civil  
2 conflict, dependency and termination of parental rights, and  
3 guardianship. The commission shall also track the race, sex,  
4 and ethnicity of private court-appointed counsel for each  
5 circuit and include this data in the quarterly report required  
6 under subsection (4).

7 Section 4. Section 27.52, Florida Statutes, is amended  
8 to read:

9 (Substantial rewording of section. See s.  
10 27.52, F.S., for present text.)  
11 27.52 Determination of indigent status.--

12 (1) APPLICATION TO THE CLERK.--A person seeking  
13 appointment of a public defender under s. 27.51 based upon an  
14 inability to pay must apply to the clerk of the court for a  
15 determination of indigent status using an application form  
16 developed by the Florida Clerks of Court Operations  
17 Corporation.

18 (a) The application must include, at a minimum, the  
19 following financial information:

20 1. Net income, consisting of total salary and wages,  
21 minus deductions required by law, including court-ordered  
22 support payments.

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

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

1           4. All liabilities and debts.

2           5. If applicable, the amount of any bail paid for the  
3 applicant's release from incarceration and the source of the  
4 funds.

5  
6 The application must include a signature by the applicant  
7 which attests to the truthfulness of the information provided.  
8 The application form developed by the corporation must include  
9 notice that the applicant may seek court review of a clerk's  
10 determination that the applicant is not indigent, as provided  
11 in this section.

12           (b) An applicant shall pay a \$40 application fee to  
13 the clerk for each application filed. The applicant shall pay  
14 the fee within 7 days after submitting the application. If  
15 the applicant does not pay the fee prior to the disposition of  
16 the case, the clerk shall notify the court, and the court  
17 shall:

18           1. Assess the application fee as part of the sentence  
19 or as a condition of probation; or

20           2. Assess the application fee pursuant to s. 938.29.

21           (c) Notwithstanding any provision of law, court rule,  
22 or administrative order to the contrary, the clerk shall  
23 assign the first \$40 of any fees or costs paid by an indigent  
24 person as payment of the application fee. A person found to be  
25 indigent may not be refused counsel or other required  
26 due-process services for failure to pay the fee.

27           (d) All application fees collected by the clerk under  
28 this section shall be transferred monthly by the clerk to the  
29 Department of Revenue for deposit in the Indigent Criminal  
30 Defense Trust Fund administered by the Justice Administrative  
31 Commission, to be used to supplement the general revenue funds

1 appropriated by the Legislature to the public defenders. The  
2 clerk may retain 2 percent of application fees collected  
3 monthly for administrative costs prior to remitting the  
4 remainder to the Department of Revenue.

5 (e)1. The clerk shall assist a person who appears  
6 before the clerk and requests assistance in completing the  
7 application, and the clerk shall notify the court if a person  
8 is unable to complete the application after the clerk has  
9 provided assistance.

10 2. If the person seeking appointment of a public  
11 defender is incarcerated, the public defender is responsible  
12 for providing the application to the person and assisting him  
13 or her in its completion and is responsible for submitting the  
14 application to the clerk on the person's behalf. The public  
15 defender may enter into an agreement for jail employees,  
16 pretrial services employees, or employees of other criminal  
17 justice agencies to assist the public defender in performing  
18 functions assigned to the public defender under this  
19 subparagraph.

20 (2) DETERMINATION BY THE CLERK.--The clerk of the  
21 court shall determine whether an applicant seeking appointment  
22 of a public defender is indigent based upon the information  
23 provided in the application and the criteria prescribed in  
24 this subsection.

25 (a)1. An applicant, including an applicant who is a  
26 minor or an adult tax-dependent person, is indigent if the  
27 applicant's income is equal to or below 200 percent of the  
28 then-current federal poverty guidelines prescribed for the  
29 size of the household of the applicant by the United States  
30 Department of Health and Human Services or if the person is  
31 receiving Temporary Assistance for Needy Families-Cash

1 Assistance, poverty-related veterans' benefits, or  
2 Supplemental Security Income (SSI).

3 2. There is a presumption that the applicant is not  
4 indigent if the applicant owns, or has equity in, any  
5 intangible or tangible personal property or real property  
6 having a net equity value of \$2,500 or more, or the expectancy  
7 of an interest in any such property.

8 (b) Based upon its review, the clerk shall make one of  
9 the following determinations:

10 1. The applicant is not indigent.

11 2. The applicant is indigent.

12 (c)1. If the clerk determines that the applicant is  
13 indigent, the clerk shall submit the determination to the  
14 office of the public defender and immediately file the  
15 determination in the case record.

16 2. If the public defender is unable to provide  
17 representation due to a conflict, the public defender shall  
18 motion the court for withdrawal from representation and  
19 appointment of private counsel.

20 (d) The duty of the clerk in determining whether an  
21 applicant is indigent shall be limited to receiving the  
22 application and comparing the information provided in the  
23 application to the criteria prescribed in this subsection.  
24 The determination of indigent status is a ministerial act of  
25 the clerk and not a decision based on further investigation or  
26 the exercise of independent judgment by the clerk. The clerk  
27 may contract with third parties to perform functions assigned  
28 to the clerk under this section.

29 (e) The applicant may seek review of the clerk's  
30 determination that the applicant is not indigent in the court  
31 having jurisdiction over the matter at the next scheduled

1 hearing. If the applicant seeks review of the clerk's  
2 determination of indigent status, the court shall make a final  
3 determination as provided in subsection (4).

4 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the  
5 clerk of the court has not made a determination of indigent  
6 status at the time a person requests appointment of a public  
7 defender, the court shall make a preliminary determination of  
8 indigent status, pending further review by the clerk, and may,  
9 by court order, appoint a public defender or private counsel  
10 on an interim basis.

11 (4) REVIEW OF CLERK'S DETERMINATION.--

12 (a) If the clerk of the court determines that the  
13 applicant is not indigent, and the applicant seeks review of  
14 the clerk's determination, the court shall make a final  
15 determination of indigent status by reviewing the information  
16 provided in the application against the criteria prescribed in  
17 subsection (2) and by considering the following additional  
18 factors:

19 1. Whether the applicant has been released on bail in  
20 an amount of \$5,000 or more.

21 2. Whether a bond has been posted, the type of bond,  
22 and who paid the bond.

23 3. Whether paying for private counsel or other due  
24 process services creates a substantial hardship for the  
25 applicant or the applicant's family.

26 4. Any other relevant financial circumstances of the  
27 applicant or the applicant's family.

28 (b) Based upon its review, the court shall make one of  
29 the following determinations and shall, if appropriate,  
30 appoint a public defender or private counsel:

31 1. The applicant is not indigent.

- 1           2. The applicant is indigent.
- 2           (5) INDIGENT FOR COSTS.--A person who is eligible to  
3 be represented by a public defender under s. 27.51 but who is  
4 represented by private counsel not appointed by the court for  
5 a fee or on a pro bono basis, or who is proceeding pro se, may  
6 motion the court for a determination that he or she is  
7 indigent for costs and eligible for the provision of  
8 due-process services, as prescribed by s. 29.006 and s.  
9 29.007, funded by the state. Due-process services are not  
10 available under this subsection to a person in a criminal  
11 proceeding who is seeking postconviction relief.
- 12           (a) The person must submit to the court:
- 13           1. The completed application prescribed in subsection  
14 (1); and
- 15           2. In the case of a person represented by counsel, an  
16 affidavit attesting to the estimated amount of attorney's fees  
17 and the source of payment for these fees.
- 18           (b) In reviewing the motion, the court shall consider:
- 19           1. Whether the applicant applied for a determination  
20 of indigent status under subsection (1) and the outcome of  
21 such application;
- 22           2. The extent to which the person's income equals or  
23 exceeds the income criteria prescribed in subsection (2);
- 24           3. The additional factors prescribed in subsection  
25 (4);
- 26           4. Whether the applicant is proceeding pro se or is  
27 represented by a private attorney for a fee or on a pro bono  
28 basis;
- 29           5. When the applicant retained private counsel; and  
30           6. The amount of any attorney's fees and who is paying  
31 the fees.

1           (c) Based upon its review, the court shall make one of  
2 the following determinations:

3           1. The applicant is not indigent for costs.

4           2. The applicant is indigent for costs.

5           (d) The provision of due-process services based upon a  
6 determination that a person is indigent for costs under this  
7 subsection must be effectuated pursuant to a court order, a  
8 copy of which the clerk shall provide to counsel representing  
9 the person, or to the person directly if he or she is  
10 proceeding pro se, for use in requesting payment of  
11 due-process expenses through the Justice Administrative  
12 Commission.

13           (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent  
14 parent or legal guardian of an applicant who is a minor or an  
15 adult tax-dependent person shall furnish the minor or adult  
16 tax-dependent person with the necessary legal services and  
17 costs incident to a delinquency proceeding or, upon transfer  
18 of such person for criminal prosecution as an adult pursuant  
19 to chapter 985, a criminal prosecution in which the person has  
20 a right to legal counsel under the Constitution of the United  
21 States or the Constitution of the State of Florida. The  
22 failure of a parent or legal guardian to furnish legal  
23 services and costs under this section does not bar the  
24 appointment of legal counsel pursuant to s. 27.40 or s.  
25 27.5303. When the public defender, a private court-appointed  
26 conflict counsel, 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 is  
5 enforceable as provided in s. 27.561 or s. 938.29.

6 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE  
7 INFORMATION.--

8 (a) If the court learns of discrepancies between the  
9 application or motion and the actual financial status of the  
10 person found to be indigent or indigent for costs, the court  
11 shall determine whether the public defender or private  
12 attorney shall continue representation or whether the  
13 authorization for any other due-process services previously  
14 authorized shall be revoked. The person may be heard  
15 regarding the information learned by the court. If the court,  
16 based on the information, determines that the person is not  
17 indigent or indigent for costs, the court shall order the  
18 public defender or private attorney to discontinue  
19 representation and revoke the provision of any other  
20 authorized due-process services.

21 (b) If the court has reason to believe that any  
22 applicant, through fraud or misrepresentation, was improperly  
23 determined to be indigent or indigent for costs, the matter  
24 shall be referred to the state attorney. Twenty-five percent  
25 of any amount recovered by the state attorney as reasonable  
26 value of the services rendered, including fees, charges, and  
27 costs paid by the state on the person's behalf, shall be  
28 remitted to the Department of Revenue for deposit into the  
29 Grants and Donations Trust Fund within the Justice  
30 Administrative Commission for appropriation by the Legislature  
31 to the state attorney. Seventy-five percent of any amount

1 recovered shall be remitted to the Department of Revenue for  
2 deposit into the General Revenue Fund.

3 (c) A person who knowingly provides false information  
4 to the clerk or the court in seeking a determination of  
5 indigent status under this section commits a misdemeanor of  
6 the second degree, punishable as provided in s. 775.082 or s.  
7 775.083.

8 Section 5. Subsections (2) and (6) of section 27.5304,  
9 Florida Statutes, are amended, and subsection (7) is added to  
10 that section, to read:

11 27.5304 Private court-appointed counsel;  
12 compensation.--

13 (2) The Justice Administrative Commission shall review  
14 an intended billing by private court-appointed counsel for  
15 attorney's fees based on a flat fee per case for completeness  
16 and compliance with contractual, statutory, and circuit  
17 Article V indigent services committee requirements. The  
18 commission may approve the intended bill based on a flat fee  
19 per case for payment without approval by the court if the  
20 intended billing is correct. For attorney's fees based on  
21 hourly billings, prior to filing a motion for an order  
22 approving payment of attorney's fees, costs, or related  
23 expenses, the private court-appointed counsel shall deliver a  
24 copy of the intended billing, together with supporting  
25 affidavits and all other necessary documentation, to the  
26 Justice Administrative Commission. The Justice Administrative  
27 Commission shall review the billings, affidavit, and  
28 documentation for completeness and compliance with contractual  
29 and statutory requirements. If the Justice Administrative  
30 Commission objects to any portion of the proposed billing, the  
31 objection and reasons therefor shall be communicated to the

1 private court-appointed counsel. The private court-appointed  
2 counsel may thereafter file his or her motion for order  
3 approving payment of attorney's fees, costs, or related  
4 expenses together with supporting affidavits and all other  
5 necessary documentation. The motion must specify whether the  
6 Justice Administrative Commission objects to any portion of  
7 the billing or the sufficiency of documentation and, if so,  
8 the reasons therefor. A copy of the motion and attachments  
9 shall be served on the Justice Administrative Commission at  
10 least 5 business days prior to the date of a hearing. The  
11 Justice Administrative Commission shall have standing to  
12 appear before the court to contest any motion for order  
13 approving payment of attorney's fees, costs, or related  
14 expenses and may participate in a hearing on the motion by use  
15 of telephonic or other communication equipment. The Justice  
16 Administrative Commission may contract with other public or  
17 private entities or individuals to appear before the court for  
18 the purpose of contesting any motion for order approving  
19 payment of attorney's fees, costs, or related expenses. The  
20 fact that the Justice Administrative Commission has not  
21 objected to any portion of the billing or to the sufficiency  
22 of the documentation is not binding on the court. The court  
23 retains primary authority and responsibility for determining  
24 the reasonableness of all billings for attorney's fees, costs,  
25 and related expenses, subject to statutory limitations.  
26 Private court-appointed counsel is entitled to compensation  
27 upon final disposition of a case, except as provided in  
28 paragraphs (a) and (b). Before final disposition of a case, a  
29 private court-appointed counsel may file a motion for fees,  
30 costs, and related expenses for services completed up to the  
31 date of the motion in any case or matter in which legal

1 services have been provided by the attorney for more than 1  
2 year. The amount approved by the court may not exceed 80  
3 percent of the fees earned, or costs and related expenses  
4 incurred, to date, or an amount proportionate to the maximum  
5 fees permitted under this section based on legal services  
6 provided to date, whichever is less. The court may grant the  
7 motion if counsel shows that failure to grant the motion would  
8 work a particular hardship upon counsel.

9 (a) Private court-appointed counsel representing a  
10 parent in a dependency case that is open and that is not in  
11 the termination-of-parental-rights stage may submit a request  
12 for payment to the Justice Administrative Commission at the  
13 following intervals:

14 1. Upon entry of an order of disposition as to the  
15 parent being represented;

16 2. Upon conclusion of a 12-month permanency review;

17 and

18 3. Following a judicial review hearing.

19  
20 In no case, however, may counsel submit requests under this  
21 paragraph more than once per quarter, unless the court finds  
22 extraordinary circumstances justifying more frequent  
23 submission of payment requests.

24 (b) Private court-appointed counsel representing an  
25 individual in an appeal to a district court of appeal or the  
26 Supreme Court may submit a request for payment to the Justice  
27 Administrative Commission at the following intervals:

28 1. Upon the filing of an appellate brief, including,  
29 but not limited to, a reply brief; and

30 2. When the opinion of the appellate court is  
31 finalized.

1           (6) A private attorney appointed in lieu of the public  
2 defender to represent an indigent defendant may not reassign  
3 or subcontract the case to another attorney. The  
4 court-appointed private attorney may not ~~or~~ allow another  
5 attorney to appear at a critical stage of a case who is not on  
6 the registry developed under ~~pursuant to~~ s. 27.40.

7           (7) Private court-appointed counsel may bill for no  
8 more than one half-hour for preparation of each invoice for  
9 attorney's fees in a case paid on the basis of an hourly rate,  
10 unless the court has approved the attorney to bill more time  
11 for preparation of the invoice. Private court-appointed  
12 counsel may not bill for preparation of invoices for cases  
13 paid on the basis of a flat fee.

14           Section 6. Subsections (2) and (4) of section 27.54,  
15 Florida Statutes, are amended to read:

16           27.54 Limitation on payment of expenditures for public  
17 defender's office other than by the state.--

18           (2) A county or municipality may contract with, or  
19 appropriate or contribute funds to, the operation of the  
20 offices of the various public defenders as provided in this  
21 subsection. A public defender defending violations of special  
22 laws or county or municipal ordinances punishable by  
23 incarceration and not ancillary to a state charge shall  
24 contract with counties and municipalities to recover the full  
25 cost of services rendered on an hourly basis or reimburse the  
26 state for the full cost of assigning one or more full-time  
27 equivalent attorney positions to work on behalf of the county  
28 or municipality. Notwithstanding any other provision of law,  
29 in the case of a county with a population of less than 75,000,  
30 the public defender shall contract for full reimbursement, or  
31 for reimbursement as the parties otherwise agree. In violation

1 cases, the county or municipality shall pay for due process  
2 services that are approved by the court, including deposition  
3 costs, deposition transcript costs, investigative costs,  
4 witness fees, expert witness costs, and interpreter costs. The  
5 person charged with the violation shall be assessed a fee for  
6 the services of a public defender and other costs and fees  
7 paid by the county or municipality, which assessed fee may be  
8 reduced to a lien, in all instances where the person enters a  
9 plea or is found to be in violation or guilty of any count or  
10 lesser included offense of the charge or companion case  
11 charges, regardless of adjudication. The court shall determine  
12 the amount of the obligation. The county or municipality may  
13 recover assessed fees through collections court or as  
14 otherwise permitted by law, and any recovered fees shall be  
15 forwarded to the applicable county or municipality as  
16 reimbursement.

17 (a) A contract for reimbursement on an hourly basis  
18 shall require a county or municipality to reimburse the public  
19 defender for services rendered at a negotiated rate not  
20 exceeding of \$50 per hour. ~~If an hourly rate is specified in~~  
21 ~~the General Appropriations Act, that rate shall control.~~

22 (b) A contract for assigning one or more full-time  
23 equivalent attorney positions to perform work on behalf of the  
24 county or municipality shall assign one or more full-time  
25 equivalent positions based on estimates by the public defender  
26 of the number of hours required to handle the projected  
27 workload. The full cost of each full-time equivalent attorney  
28 position on an annual basis shall be the negotiated hourly  
29 rate\$50, ~~or the amount specified in the General~~  
30 ~~Appropriations Act,~~ multiplied by the legislative budget  
31 request standard for available work hours for one full-time

1 equivalent attorney position, or, in the absence of that  
2 standard, 1,854 hours. The contract may provide for funding  
3 full-time equivalent positions in one-quarter increments.

4 (c) Any payments received under ~~pursuant to~~ this  
5 subsection shall be deposited into the Grants and Donations  
6 Trust Fund within the Justice Administrative Commission for  
7 use appropriation by the public defender ~~Legislature~~.

8 (4) Unless expressly authorized by law or in the  
9 General Appropriations Act, public defenders are prohibited  
10 from spending state-appropriated funds on county funding  
11 obligations under s. 14, Art. V of the State Constitution  
12 beginning January 1, 2005. This includes expenditures on  
13 communications services and facilities as defined in s.  
14 29.008. This does not prohibit a public defender from spending  
15 funds for these purposes in exceptional circumstances when  
16 necessary to maintain operational continuity in the form of a  
17 short-term advance pending reimbursement from the county. If a  
18 public defender provides short-term advance funding for a  
19 county responsibility as authorized by this subsection, the  
20 public defender shall request full reimbursement from the  
21 board of county commissioners prior to making the expenditure  
22 or at the next meeting of the board of county commissioners  
23 after the expenditure is made. The total of all short-term  
24 advances authorized by this subsection shall not exceed 2  
25 percent of the public defender's approved operating budget in  
26 any given year. No short-term advances authorized by this  
27 subsection shall be permitted until all reimbursements arising  
28 from advance funding in the prior state fiscal year have been  
29 received by the public defender. All reimbursement payments  
30 received by the public defender shall be deposited into the  
31 fund from which the expenditure was made ~~General Revenue Fund~~.

1 Notwithstanding the provisions of this subsection, the public  
2 defender may expend funds for the purchase of computer  
3 systems, including associated hardware and software, and for  
4 personnel related to this function.

5 Section 7. Section 28.24, Florida Statutes, is amended  
6 to read:

7 28.24 Service charges by clerk of the circuit  
8 court.--The clerk of the circuit court may charge for services  
9 rendered by the clerk's office in recording documents and  
10 instruments and in performing the duties enumerated in amounts  
11 not to exceed those specified in this section. Notwithstanding  
12 any other provision of this section, the clerk of the circuit  
13 court shall provide without charge to the state attorney,  
14 public defender, ~~and~~ guardian ad litem, attorney ad litem, and  
15 court-appointed counsel paid by the state, and to the  
16 authorized staff acting on behalf of each, access to and a  
17 copy of any public record, if the requesting party is entitled  
18 by law to view the exempt or confidential record, as  
19 maintained by and in the custody of the clerk of the circuit  
20 court as provided in general law and the Florida Rules of  
21 Judicial Administration. The clerk of the circuit court may  
22 provide the requested public record in an electronic format in  
23 lieu of a paper format when capable of being accessed by the  
24 requesting entity.

25  
26 Charges

27  
28 (1) For examining, comparing, correcting, verifying,  
29 and certifying transcripts of record in appellate proceedings,  
30 prepared by attorney for appellant or someone else other than  
31 clerk per page.....4.50



1	(2) For preparing, numbering, and indexing an original	
2	record of appellate proceedings, per instrument.....	3.00
3	(3) For certifying copies of any instrument in the	
4	public records.....	1.50
5	(4) For verifying any instrument presented for	
6	certification prepared by someone other than clerk, per page	
7	.....	3.00
8	(5)(a) For making copies by photographic process of	
9	any instrument in the public records consisting of pages of	
10	not more than 14 inches by 8 1/2 inches, per page.....	1.00
11	(b) For making copies by photographic process of any	
12	instrument in the public records of more than 14 inches by 8	
13	1/2 inches, per page.....	5.00
14	(6) For making microfilm copies of any public records:	
15	(a) 16 mm 100' microfilm roll.....	37.50
16	(b) 35 mm 100' microfilm roll.....	52.50
17	(c) Microfiche, per fiche.....	3.00
18	(7) For copying any instrument in the public records	
19	by other than photographic process, per page.....	6.00
20	(8) For writing any paper other than herein	
21	specifically mentioned, same as for copying, including signing	
22	and sealing.....	6.00
23	(9) For indexing each entry not recorded.....	1.00
24	(10) For receiving money into the registry of court:	
25	(a)1. First \$500, percent.....	3
26	2. Each subsequent \$100, percent.....	1.5
27	(b) Eminent domain actions, per deposit.....	\$150.00
28	(11) For examining, certifying, and recording plats	
29	and for recording condominium exhibits larger than 14 inches	
30	by 8 1/2 inches:	
31	(a) First page.....	30.00

1           (b) Each additional page.....15.00  
2           (12) For recording, indexing, and filing any  
3 instrument not more than 14 inches by 8 1/2 inches, including  
4 required notice to property appraiser where applicable:  
5           (a) First page or fraction thereof.....5.00  
6           (b) Each additional page or fraction thereof.....4.00  
7           (c) For indexing instruments recorded in the official  
8 records which contain more than four names, per additional  
9 name.....1.00  
10          (d) An additional service charge shall be paid to the  
11 clerk of the circuit court to be deposited in the Public  
12 Records Modernization Trust Fund for each instrument listed in  
13 s. 28.222, except judgments received from the courts and  
14 notices of lis pendens, recorded in the official records:  
15           1. First page.....1.00  
16           2. Each additional page.....0.50  
17  
18 Said fund shall be held in trust by the clerk and used  
19 exclusively for equipment and maintenance of equipment,  
20 personnel training, and technical assistance in modernizing  
21 the public records system of the office. In a county where the  
22 duty of maintaining official records exists in an office other  
23 than the office of the clerk of the circuit court, the clerk  
24 of the circuit court is entitled to 25 percent of the moneys  
25 deposited into the trust fund for equipment, maintenance of  
26 equipment, training, and technical assistance in modernizing  
27 the system for storing records in the office of the clerk of  
28 the circuit court. The fund may not be used for the payment of  
29 travel expenses, membership dues, bank charges,  
30 staff-recruitment costs, salaries or benefits of employees,  
31 construction costs, general operating expenses, or other costs

1 not directly related to obtaining and maintaining equipment  
2 for public records systems or for the purchase of furniture or  
3 office supplies and equipment not related to the storage of  
4 records. On or before December 1, 1995, and on or before  
5 December 1 of each year immediately preceding each year during  
6 which the trust fund is scheduled for legislative review under  
7 s. 19(f)(2), Art. III of the State Constitution, each clerk of  
8 the circuit court shall file a report on the Public Records  
9 Modernization Trust Fund with the President of the Senate and  
10 the Speaker of the House of Representatives. The report must  
11 itemize each expenditure made from the trust fund since the  
12 last report was filed; each obligation payable from the trust  
13 fund on that date; and the percentage of funds expended for  
14 each of the following: equipment, maintenance of equipment,  
15 personnel training, and technical assistance. The report must  
16 indicate the nature of the system each clerk uses to store,  
17 maintain, and retrieve public records and the degree to which  
18 the system has been upgraded since the creation of the trust  
19 fund.

20 (e) An additional service charge of \$4 per page shall  
21 be paid to the clerk of the circuit court for each instrument  
22 listed in s. 28.222, except judgments received from the courts  
23 and notices of lis pendens, recorded in the official records.  
24 From the additional \$4 service charge collected:

25 1. If the counties maintain legal responsibility for  
26 the costs of the court-related technology needs as defined in  
27 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to  
28 the Florida Association of Court Clerks and Comptroller, Inc.,  
29 for the cost of development, implementation, operation, and  
30 maintenance of the clerks' Comprehensive Case Information  
31 System, in which system all clerks shall participate on or

1 before January 1, 2006; \$1.90 shall be retained by the clerk  
2 to be deposited in the Public Records Modernization Trust Fund  
3 and used exclusively for funding court-related technology  
4 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);  
5 and \$2 shall be distributed to the board of county  
6 commissioners to be used exclusively to fund court-related  
7 technology, and court technology needs as defined in s.  
8 29.008(1)(f)2. and (h) for the state trial courts, state  
9 attorney, and public defender in that county. If the counties  
10 maintain legal responsibility for the costs of the  
11 court-related technology needs as defined in s. 29.008(1)(f)2.  
12 and (h), notwithstanding any other provision of law, the  
13 county is not required to provide additional funding beyond  
14 that provided herein for the court-related technology needs of  
15 the clerk as defined in s. 29.008(1)(f)2. and (h). All court  
16 records and official records are the property of the State of  
17 Florida, including any records generated as part of the  
18 Comprehensive Case Information System funded pursuant to this  
19 paragraph and the clerk of court is designated as the  
20 custodian of such records, except that in a county where the  
21 duty of maintaining official records exists in a county office  
22 other than the clerk of court, such county office is  
23 designated the custodian of all official records, and the  
24 Clerk of Court is designated the Custodian of all court  
25 records. The clerk of court or any entity acting on behalf of  
26 the clerk of court, including an association, shall not charge  
27 a fee to any agency as defined in s. 119.011, the Legislature,  
28 or the State Court System for copies of records generated by  
29 the Comprehensive Case Information System or held by the clerk  
30 of court or any entity acting on behalf of the clerk of court,  
31 including an association.

1           2. If the state becomes legally responsible for the  
2 costs of court-related technology needs as defined in s.  
3 29.008(1)(f)2. and (h), whether by operation of general law or  
4 by court order, \$4 shall be remitted to the Department of  
5 Revenue for deposit into the General Revenue Fund.

6           (13) Oath, administering, attesting, and sealing, not  
7 otherwise provided for herein.....3.00

8           (14) For validating certificates, any authorized  
9 bonds, each.....3.00

10           (15) For preparing affidavit of domicile.....5.00

11           (16) For exemplified certificates, including signing  
12 and sealing.....6.00

13           (17) For authenticated certificates, including signing  
14 and sealing.....6.00

15           (18)(a) For issuing and filing a subpoena for a  
16 witness, not otherwise provided for herein (includes writing,  
17 preparing, signing, and sealing).....6.00

18           (b) For signing and sealing only.....1.50

19           (19) For approving bond.....7.50

20           (20) For searching of records, for each year's search  
21 .....1.50

22           (21) For processing an application for a tax deed sale  
23 (includes application, sale, issuance, and preparation of tax  
24 deed, and disbursement of proceeds of sale), other than excess  
25 proceeds.....60.00

26           (22) For disbursement of excess proceeds of tax deed  
27 sale, first \$100 or fraction thereof.....10.00

28           (23) Upon receipt of an application for a marriage  
29 license, for preparing and administering of oath; issuing,  
30 sealing, and recording of the marriage license; and providing  
31 a certified copy.....30.00

1           (24) For solemnizing matrimony.....30.00  
2           (25) For sealing any court file or expungement of any  
3 record.....37.50  
4           (26)(a) For receiving and disbursing all restitution  
5 payments, per payment.....3.00  
6           (b) For receiving and disbursing all partial payments,  
7 other than restitution payments, for which an administrative  
8 processing service charge is not imposed pursuant to s.  
9 28.246, per month.....5.00  
10           (c) For setting up a payment plan, a one-time  
11 administrative processing charge in lieu of a per month charge  
12 under paragraph (b).....25.00  
13           (27) Postal charges incurred by the clerk of the  
14 circuit court in any mailing by certified or registered mail  
15 shall be paid by the party at whose instance the mailing is  
16 made.  
17           (28) For furnishing an electronic copy of information  
18 contained in a computer database: a fee as provided for in  
19 chapter 119.  
20           Section 8. Paragraph (a) of subsection (1) of section  
21 28.2402, Florida Statutes, is amended to read:  
22           28.2402 Cost recovery; use of the circuit court for  
23 ordinance or special law violations.--  
24           (1)(a) In lieu of payment of a filing fee under s.  
25 28.241, a filing fee of \$10 shall be paid by a county or  
26 municipality when filing a county or municipal ordinance  
27 violation or violation of a special law in circuit court. This  
28 fee shall be paid to the clerk of the court for performing  
29 court-related functions. A county or municipality is not  
30 required to pay more than one filing fee for a single filing  
31 that contains multiple alleged violations. A filing fee, other

1 than that imposed under this section, may not be assessed for  
2 initiating an enforcement proceeding in circuit court for a  
3 violation of a county or municipal code or ordinance or a  
4 violation of a special law. The filing fee does not apply to  
5 violations of a local government code that are enforced under  
6 part I of chapter 162. The filing fee does not apply to  
7 instances in which a county or a municipality has contracted  
8 with the state, or has been delegated by the state,  
9 responsibility for enforcing state operations, policies, or  
10 requirements under s. 125.69, s. 166.0415, or chapter 162.

11 Section 9. Subsection (2) of section 28.241, Florida  
12 Statutes, is amended to read:

13 28.241 Filing fees for trial and appellate  
14 proceedings.--

15 (2)(a) Upon the institution of any appellate  
16 proceeding from any lower court to the circuit court of any  
17 such county, including appeals filed by a county or  
18 municipality as provided in s. 34.041(5), ~~or from the circuit~~  
19 ~~court to an appellate court of the state,~~ the clerk shall  
20 charge and collect from the party or parties instituting such  
21 appellate ~~proceedings~~ proceedings a filing fee not to exceed  
22 \$250 for filing a notice of appeal from the county court to  
23 the circuit court. The clerk shall remit the first \$50 to the  
24 Department of Revenue for deposit into the General Revenue  
25 Fund. One-third of the fee collected by the clerk in excess of  
26 \$50 also shall be remitted to the Department of Revenue for  
27 deposit into the Clerks of the Court Trust Fund. and,

28 (b) In addition to the filing fee required under s.  
29 25.241 or s. 35.22, the clerk shall collect and retain from  
30 the party or parties instituting an appellate proceeding a  
31 service charge of \$75\$50 for filing a notice of appeal from

1 the circuit court to the district court of appeal or to the  
2 Supreme Court.

3  
4 If the party is determined to be indigent, the clerk shall  
5 defer payment of the fee and service charge under this  
6 subsection. ~~The clerk shall remit the first \$50 to the~~  
7 ~~Department of Revenue for deposit into the General Revenue~~  
8 ~~Fund. One third of the fee collected by the clerk in excess of~~  
9 ~~\$50 also shall be remitted to the Department of Revenue for~~  
10 ~~deposit into the Clerks of the Court Trust Fund.~~

11 Section 10. Section 28.245, Florida Statutes, is  
12 amended to read:

13 28.245 Transmittal of funds to Department of Revenue;  
14 uniform remittance form required.--Notwithstanding any other  
15 provision of law, all moneys collected by the clerks of the  
16 court as part of the clerk's court-related functions for  
17 subsequent distribution to any state entity must be  
18 transmitted electronically, by the 20th day of the month  
19 immediately following the month in which the moneys are  
20 collected, to the Department of Revenue for appropriate  
21 distribution. A uniform remittance form provided by the  
22 Department of Revenue detailing the specific amounts due each  
23 fund must accompany such submittal. All moneys collected by  
24 the clerks of court for remittance to any entity must be  
25 distributed pursuant to the law in effect at the time of  
26 collection.

27 Section 11. Subsections (1) and (4) of section 28.246,  
28 Florida Statutes, are amended to read:

29 28.246 Payment of court-related fees, charges, and  
30 costs; partial payments; distribution of funds.--

31



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

6           (a) The total amount of mandatory fees, service  
7 charges, and costs; the total amount actually assessed; the  
8 total amount discharged, waived, or otherwise not assessed;  
9 and the total amount collected.

10           (b) The amount of discretionary fees, service charges,  
11 and costs assessed; the total amount discharged; and the total  
12 amount collected.

13           (c) The total amount of mandatory fines and other  
14 monetary penalties; the total amount assessed; the total  
15 amount discharged, waived, or otherwise not assessed; and the  
16 total amount collected.

17           (d) The amount of discretionary fines and other  
18 monetary penalties assessed; the amount discharged; and the  
19 total amount collected.

20  
21 If provided to the clerk of court by the judge, the clerk, in  
22 reporting the amount assessed, shall separately identify the  
23 amount assessed pursuant to s. 938.30 as community service;  
24 assessed by reducing the amount to a judgment or lien;  
25 satisfied by time served; or other. The form developed by the  
26 Chief Financial Officer shall include separate entries for  
27 recording these amounts. The clerk shall submit the report on  
28 a quarterly basis 30 days after the end of the quarter for the  
29 period from July 1, 2003, through June 30, 2004, and on an  
30 annual basis thereafter, 60 days after the end of the county  
31 fiscal year.

1           (4) The clerk of the circuit court shall accept  
2 partial payments for court-related fees, service charges,  
3 costs, and fines in accordance with the terms of an  
4 established payment plan. An individual seeking to defer  
5 payment of fees, service charges, costs, or fines imposed by  
6 operation of law or order of the court under any provision of  
7 general law shall apply to the clerk for enrollment in a  
8 payment plan. The clerk shall enter into a payment plan with  
9 an individual who the court determines is indigent for costs  
10 and who demonstrates to the clerk an inability to pay  
11 court-related fees, service charges, costs, or fines in full.  
12 Periodic payment amounts shall correspond to the individual's  
13 ability to pay. The court may review the reasonableness of the  
14 payment plan, and determined by the court to be unable to make  
15 payment in full, shall be enrolled by the clerk in a payment  
16 program, with periodic payment amounts corresponding to the  
17 individual's ability to pay.

18           Section 12. Section 28.345, Florida Statutes, is  
19 amended to read:

20           28.345 Exemption from court-related fees and  
21 charges.--Notwithstanding any other provision of this chapter  
22 or law to the contrary, judges and those court staff acting on  
23 behalf of judges, state attorneys, guardians ad litem,  
24 attorneys ad litem, court-appointed private counsel, and  
25 public defenders, acting in their official capacity, and state  
26 agencies, are exempt from all court-related fees and charges  
27 assessed by the clerks of the circuit courts.

28           Section 13. Paragraph (a) of subsection (3) of section  
29 28.35, Florida Statutes, is amended to read:

30           28.35 Florida Clerks of Court Operations  
31 Corporation.--

1           (3)(a) The Clerks of Court Operations Corporation  
2 shall certify to the President of the Senate, the Speaker of  
3 the House of Representatives, the Chief Financial Officer, and  
4 the Department of Revenue by October 15 of each year, the  
5 amount of the proposed budget certified for each clerk; the  
6 revenue projection supporting each clerk's budget; each clerk  
7 eligible to retain some or all of the state's share of fines,  
8 fees, service charges, and costs; the amount to be paid to  
9 each clerk from the Clerks of the Court Trust Fund within the  
10 Department of Revenue; the performance measures and standards  
11 approved by the conference for each clerk; and the performance  
12 of each clerk in meeting the performance standards. This  
13 certification must also include a report of any additional  
14 budget funding authority the corporation approves for a clerk  
15 under s. 28.36(6), as well as the documentation required under  
16 s. 28.36 relating to the factual basis for the approval.

17           Section 14. Paragraph (a) of subsection (3) of section  
18 28.36, Florida Statutes, is amended, present subsection (6) of  
19 that section is redesignated as subsection (7), and a new  
20 subsection (6) is added to that section, to read:

21           28.36 Budget procedure.--There is hereby established a  
22 budget procedure for the court-related functions of the clerks  
23 of the court.

24           (3) Each proposed budget shall further conform to the  
25 following requirements:

26           (a) On or before August 15 ~~±~~ for each fiscal year  
27 thereafter, the proposed budget shall be prepared, summarized,  
28 and submitted by the clerk in each county to the Clerks of  
29 Court Operations Corporation in the manner and form prescribed  
30 by the corporation ~~conference~~. The proposed budget must  
31 provide detailed information on the anticipated revenues

1 available and expenditures necessary for the performance of  
2 the standard list of court-related functions of the clerk's  
3 office developed pursuant to s. 28.35(4)(a) for the county  
4 fiscal year beginning the following October 1.

5 (6) The Florida Clerks of Court Operations Corporation  
6 may approve funding for a clerk of the court in excess of the  
7 maximum annual budget amounts specified in this section if the  
8 corporation finds that additional funding is necessary for the  
9 clerk to perform the standard list of court-related functions  
10 in s. 28.35(4)(a) and one of the following conditions exists:

11 (a) The additional funding is reasonable and necessary  
12 to pay the cost of performing new or additional functions  
13 required by changes in law or court rule;

14 (b) The additional funding is reasonable and necessary  
15 to pay the additional costs required for the clerk to support  
16 increases in the number of judges and other judicial resources  
17 authorized by the Legislature; or

18 (c) The additional funding is reasonable and necessary  
19 to satisfy court-related expenses incurred by the clerk which  
20 result from increases in previously funded fixed expenses  
21 outside the control of the clerk.

22  
23 Before approving additional funding in excess of the maximum  
24 annual budget amounts, as authorized by this subsection, the  
25 corporation must document in detail the factual basis for the  
26 approval. Within 30 days after approving additional funding,  
27 the corporation shall notify the Chief Financial Officer of  
28 the action and submit to him or her the documentation relating  
29 to the factual basis for the approval.

30 Section 15. Subsection (6) of section 29.004, Florida  
31 Statutes, is amended to read:

1           29.004 State courts system.--For purposes of  
2 implementing s. 14, Art. V of the State Constitution, the  
3 elements of the state courts system to be provided from state  
4 revenues appropriated by general law are as follows:

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

8           Section 16. Section 29.007, Florida Statutes, is  
9 amended to read:

10           29.007 Court-appointed counsel.--For purposes of  
11 implementing s. 14, Art. V of the State Constitution, the  
12 elements of court-appointed counsel to be provided from state  
13 revenues appropriated by general law are as follows:

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

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

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

27           (4) Witnesses, including expert witnesses, summoned to  
28 appear for an investigation, preliminary hearing, or trial in  
29 a case when the witnesses are summoned on behalf of an  
30 indigent, and any other expert witnesses approved by the  
31 court.

1           (5) Mental health professionals appointed pursuant to  
2 s. 394.473 and required in a court hearing involving an  
3 indigent, ~~and~~ mental health professionals appointed pursuant  
4 to s. 916.115(2) and required in a court hearing involving an  
5 indigent, and any other mental health professionals required  
6 by law for the full adjudication of any civil case.

7           (6) Reasonable pretrial consultation fees and costs.

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

11  
12 Subsections (3), (4), (5), (6), and (7) apply when  
13 court-appointed counsel is appointed; when the litigant  
14 retains, or is represented on a pro-bono basis by, a private  
15 attorney and the court determines that the litigant is  
16 indigent for costs; or when the litigant is acting pro se and  
17 the court determines that the litigant is indigent for costs  
18 at the trial or appellate level. This section applies in any  
19 situation in which the court appoints counsel to protect a  
20 litigant's due-process rights.

21           Section 17. Subsection (1) of section 29.008, Florida  
22 Statutes, is amended to read:

23           29.008 County funding of court-related functions.--

24           (1) Counties are required by s. 14, Art. V of the  
25 State Constitution to fund the cost of communications  
26 services, existing radio systems, existing multiagency  
27 criminal justice information systems, and the cost of  
28 construction or lease, maintenance, utilities, and security of  
29 facilities for the circuit and county courts, public  
30 defenders' offices, state attorneys' offices, guardian ad  
31 litem offices, and the offices of the clerks of the circuit

1 and county courts performing court-related functions. For  
2 purposes of this section, the term "circuit and county courts"  
3 shall include the offices and staffing of the guardian ad  
4 litem programs. The county designated under s. 35.05(1) as the  
5 headquarters for each appellate district shall fund these  
6 costs for the appellate division of the public defender's  
7 office in that county. For purposes of implementing these  
8 requirements, the term:

9 (a) "Facility" means reasonable and necessary  
10 buildings and office space and appurtenant equipment and  
11 furnishings, structures, real estate, easements, and related  
12 interests in real estate, including, but not limited to, those  
13 for the purpose of housing legal materials for use by the  
14 general public and personnel, equipment, or functions of the  
15 circuit or county courts, public defenders' offices, state  
16 attorneys' offices, and court-related functions of the office  
17 of the clerks of the circuit and county courts and all  
18 storage. The term "facility" includes all wiring necessary for  
19 court-reporting services. The term also includes access to  
20 parking for such facilities in connection with such  
21 court-related functions that may be available free or from a  
22 private provider or a local government for a fee. The office  
23 space provided by a county may not be less than the standards  
24 for space allotment adopted by the Department of Management  
25 Services, except that this requirement applies only to  
26 facilities that are leased, or on which construction  
27 commences, after June 30, 2003. County funding must include  
28 physical modifications and improvements to all facilities as  
29 are required for compliance with the Americans with  
30 Disabilities Act. Upon mutual agreement of a county and the  
31 affected entity in this paragraph, the office space provided

1 | by the county may vary from the standards for space allotment  
2 | adopted by the Department of Management Services. ~~This section~~  
3 | ~~applies only to facilities that are leased, or on which~~  
4 | ~~construction commences, after June 30, 2003.~~

5 |         1. As of July 1, 2005, equipment and furnishings shall  
6 | be limited to that appropriate and customary for courtrooms,  
7 | hearing rooms, jury facilities, and other public areas in  
8 | courthouses and any other facility occupied by the courts,  
9 | state attorneys, and public defenders. Court-reporting  
10 | equipment in these areas or facilities is not a responsibility  
11 | of the county.

12 |         2. Equipment and furnishings under this paragraph in  
13 | existence and owned by counties on July 1, 2005, except for  
14 | that in the possession of the clerks, for areas other than  
15 | courtrooms, hearing rooms, jury facilities, and other public  
16 | areas in courthouses and any other facility occupied by the  
17 | courts, state attorneys, and public defenders, shall be  
18 | transferred to the state at no charge. This provision does not  
19 | apply to any communication services as defined in paragraph  
20 | (f).

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



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

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

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

29           (f) "Communications services" are defined as any  
30 reasonable and necessary transmission, emission, and reception  
31 of signs, signals, writings, images, and sounds of

1 intelligence of any nature by wire, radio, optical, audio  
2 equipment, or other electromagnetic systems and includes all  
3 facilities and equipment owned, leased, or used by judges,  
4 clerks, public defenders, state attorneys, and all staff of  
5 the state courts system, state attorneys' offices, public  
6 defenders' offices, and clerks of the circuit and county  
7 courts performing court-related functions. Such system or  
8 services shall include, but not be limited to:

9           1. Telephone system infrastructure, including computer  
10 lines, telephone switching equipment, and maintenance, and  
11 facsimile equipment, wireless communications, cellular  
12 telephones, pagers, and video teleconferencing equipment and  
13 line charges. Each county shall continue to provide access to  
14 a local carrier for local and long distance service and shall  
15 pay toll charges for local and long distance service.

16           2. All computer networks, systems and equipment,  
17 including computer hardware and software, modems, printers,  
18 wiring, network connections, maintenance, support staff or  
19 services including any county-funded support staff located in  
20 the offices of the circuit court, county courts, state  
21 attorneys, and public defenders, training, supplies, and line  
22 charges necessary for an integrated computer system to support  
23 the operations and management of the state courts system, the  
24 offices of the public defenders, the offices of the state  
25 attorneys, and the offices of the clerks of the circuit and  
26 county courts and the capability to connect those entities and  
27 reporting data to the state as required for the transmission  
28 of revenue, performance accountability, case management, data  
29 collection, budgeting, and auditing purposes. The integrated  
30 computer system shall be operational by July 1, 2006, and, at  
31 a minimum, permit the exchange of financial, performance

1 | accountability, case management, case disposition, and other  
2 | data across multiple state and county information systems  
3 | involving multiple users at both the state level and within  
4 | each judicial circuit and be able to electronically exchange  
5 | judicial case background data, sentencing scoresheets, and  
6 | video evidence information stored in integrated case  
7 | management systems over secure networks. Once the integrated  
8 | system becomes operational, counties may reject requests to  
9 | purchase communication services included in this subparagraph  
10 | not in compliance with standards, protocols, or processes  
11 | adopted by the board established pursuant to s. 29.0086.

12 |         3. Courier messenger and subpoena services.

13 |         4. Auxiliary aids and services for qualified  
14 | individuals with a disability which are necessary to ensure  
15 | access to the courts. Such auxiliary aids and services  
16 | include, but are not limited to, sign language interpretation  
17 | services required under the federal Americans with  
18 | Disabilities Act other than services required to satisfy due  
19 | process requirements and identified as a state funding  
20 | responsibility pursuant to ss. 29.004, 29.005, 29.006, and  
21 | 29.007, real-time transcription services for individuals who  
22 | are hearing impaired, and assistive listening devices and the  
23 | equipment necessary to implement such accommodations.

24 |         (g) "Existing radio systems" includes, but is not  
25 | limited to, law enforcement radio systems that are used by the  
26 | circuit and county courts, the offices of the public  
27 | defenders, the offices of the state attorneys, and for  
28 | court-related functions of the offices of the clerks of the  
29 | circuit and county courts. This includes radio systems that  
30 | were operational or under contract at the time Revision No. 7,  
31 | 1998, to Art. V of the State Constitution was adopted and any

1 | enhancements made thereafter, the maintenance of those  
2 | systems, and the personnel and supplies necessary for  
3 | operation.

4 |         (h) "Existing multiagency criminal justice information  
5 | systems" includes, but is not limited to, those components of  
6 | the multiagency criminal justice information system as defined  
7 | in s. 943.045, supporting the offices of the circuit or county  
8 | courts, the public defenders' offices, the state attorneys'  
9 | offices, or those portions of the offices of the clerks of the  
10 | circuit and county courts performing court-related functions  
11 | that are used to carry out the court-related activities of  
12 | those entities. This includes upgrades and maintenance of the  
13 | current equipment, maintenance and upgrades of supporting  
14 | technology infrastructure and associated staff, and services  
15 | and expenses to assure continued information sharing and  
16 | reporting of information to the state. The counties shall also  
17 | provide additional information technology services, hardware,  
18 | and software as needed for new judges and staff of the state  
19 | courts system, state attorneys' offices, public defenders'  
20 | offices, and the offices of the clerks of the circuit and  
21 | county courts performing court-related functions.

22 |         Section 18. Subsection (2) of section 29.015, Florida  
23 | Statutes, is amended to read:

24 |         29.015 Contingency fund; limitation of authority to  
25 | transfer funds in contracted due process services  
26 | appropriation categories.--

27 |         (2) In the event that a state attorney or public  
28 | defender incurs a deficit in a contracted due process services  
29 | appropriation category, the following steps shall be taken in  
30 | order:  
31 |

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

6           (b) In the event that the state attorney or public  
7 defender is unable to identify surplus funds from within his  
8 or her office, he or she shall certify this to the Justice  
9 Administrative Commission along with a complete explanation of  
10 the circumstances which led to the deficit and steps the  
11 office has taken to reduce or alleviate the deficit. The  
12 Justice Administrative Commission shall inquire as to whether  
13 any other office has surplus funds in its contracted due  
14 process services appropriation categories which can be  
15 transferred to the office that is experiencing the deficit. If  
16 other offices indicate that surplus funds are available within  
17 the same appropriation category, the Justice Administrative  
18 Commission shall transfer the amount needed to fund the  
19 deficit and notify the Governor and the chair and vice chair  
20 of the legislative budget commission 14 days prior to a  
21 transfer pursuant to the notice, review, and objection  
22 provisions of s. 216.177. If funds appropriated for this  
23 purpose are available in a different budget entity, the  
24 Justice Administrative Commission shall request a budget  
25 amendment pursuant to chapter 216 ~~request a budget amendment~~  
26 ~~to transfer funds from the office or offices to alleviate the~~  
27 ~~deficit upon agreement of the contributing office or offices.~~

28           (c) If no office indicates that surplus funds are  
29 available to alleviate the deficit, the Justice Administrative  
30 Commission may request a budget amendment to transfer funds  
31 from the contingency fund. Such transfers shall be in

1 accordance with all applicable provisions of chapter 216 and  
2 shall be subject to review and approval by the Legislative  
3 Budget Commission. The Justice Administrative Commission shall  
4 submit the documentation provided by the office explaining the  
5 circumstances that led to the deficit and the steps taken by  
6 the office and the Justice Administrative Commission to  
7 identify surplus funds to the Legislative Budget Commission.

8 Section 19. Section 29.018, Florida Statutes, is  
9 amended to read:

10 29.018 Cost sharing of ~~due-process~~ ~~due process costs~~;  
11 legislative intent.--It is the intent of the Legislature to  
12 provide state-funded ~~due-process~~ ~~due process~~ services to the  
13 state courts system, state attorneys, public defenders, and  
14 court-appointed counsel in the most cost-effective and  
15 efficient manner. The state courts system, state attorneys,  
16 public defenders, and the Justice Administrative Commission on  
17 behalf of court-appointed counsel may enter into contractual  
18 agreements to share, on a pro rata basis, the costs associated  
19 with court reporting services, court interpreter and  
20 translation services, court experts, and all other ~~due-process~~  
21 ~~due process~~ services funded by the state pursuant to this  
22 chapter. These costs shall be budgeted within the funds  
23 appropriated to each of the affected users of services.

24 Section 20. Section 29.0185, Florida Statutes, is  
25 created to read:

26 29.0185 Provision of state-funded due-process services  
27 to individuals.--Due-process services may not be provided with  
28 state revenues to an individual unless:

29 (1) The individual on whose behalf the due-process  
30 services are being provided is eligible for court-appointed  
31 counsel under s. 27.40, based upon a determination of

1 indigency under s. 27.52, regardless of whether such counsel  
2 is appointed; and

3 (2) The due-process services are provided pursuant to  
4 a court order.

5 Section 21. Subsection (1) of section 34.045, Florida  
6 Statutes, is amended to read:

7 34.045 Cost recovery; use of the county court for  
8 ordinance or special law violations.--

9 (1)(a) In lieu of payment of a filing fee under s.  
10 34.041, a filing fee of \$10 shall be paid by a county or  
11 municipality when filing a violation of a county or municipal  
12 ordinance or a violation of a special law in county court.  
13 This fee shall be paid to the clerk of the court for  
14 performing court-related functions. A county or municipality  
15 is not required to pay more than one filing fee for a single  
16 filing that contains multiple alleged violations. A filing  
17 fee, other than that imposed under this section, may not be  
18 assessed for initiating an enforcement proceeding in county  
19 court for a violation of a county or municipal code or  
20 ordinance or a violation of a special law. The filing fee  
21 under this section does not apply to:

22 1. Violations of a local government code that are  
23 enforced under part I of chapter 162;

24 2. Instances in which a county or a municipality has  
25 contracted with the state, or has been delegated by the state,  
26 responsibility for enforcing state operations, policies, or  
27 requirements under s. 125.69, s. 166.0415, or chapter 162; or

28 3. Instances in which the filing of a violation of a  
29 county or municipal code or ordinance or a violation of a  
30 special law also includes a violation of state law.

31

1 (b) No other filing fee may be assessed for filing the  
2 violation in county court. If a person contests the violation  
3 in court, the court shall assess \$40 in costs against the  
4 nonprevailing party. The county or municipality shall be  
5 considered the prevailing party when there is a plea or  
6 finding of violation or guilt to any count or lesser included  
7 offense of the charge or companion case charges, regardless of  
8 adjudication. Costs ~~Cost~~ recovered pursuant to this paragraph  
9 shall be deposited into the clerk's fine and forfeiture fund  
10 established pursuant to s. 142.01.

11 (c) If the person does not contest the violation in  
12 court, or if the county or municipality is the prevailing  
13 party, the court shall assess the person or nonprevailing  
14 party \$10 for the filing fee provided in paragraph (a), which  
15 amount shall be forwarded to the county or municipality.

16 Section 22. Section 34.191, Florida Statutes, is  
17 amended to read:

18 34.191 Fines and forfeitures; dispositions.--

19 (1) All fines and forfeitures arising from offenses  
20 tried in the county court shall be collected and accounted for  
21 by the clerk of the court and, other than the charge provided  
22 in s. 318.1215, disbursed in accordance with ss. 28.2402,  
23 34.045, 142.01, and 142.03 ~~142.13~~ and subject to the  
24 provisions of s. 28.246(5) and (6). Notwithstanding the  
25 provisions of this section, all fines and forfeitures arising  
26 from operation of the provisions of s. 318.1215 shall be  
27 disbursed in accordance with that section.

28 (2)(a) All fines and forfeitures received from  
29 violations of municipal ordinances committed within a  
30 municipality within the territorial jurisdiction of the county  
31 court, other than the charge provided in s. 318.1215, shall be



1 paid monthly to the municipality except as provided in s.  
2 28.2402(2), s. 34.045(2), s. 318.21, or s. 943.25.

3 (b) Notwithstanding paragraph (a), all fines and  
4 forfeitures arising from offenses committed within an  
5 unincorporated area of a municipality having a consolidated  
6 government under s. 6(e), Art. VIII of the State Constitution  
7 shall be paid monthly to the clerk of the county court.

8 (3) All other fines and forfeitures collected by the  
9 clerk, other than the charge provided in s. 318.1215, shall be  
10 considered income of the office of the clerk for use in  
11 performing court-related duties of the office.

12 Section 23. Subsection (3) of section 39.0132, Florida  
13 Statutes, is amended to read:

14 39.0132 Oaths, records, and confidential  
15 information.--

16 (3) The clerk shall keep all court records required by  
17 this chapter separate from other records of the circuit court.  
18 All court records required by this chapter shall not be open  
19 to inspection by the public. All records shall be inspected  
20 only upon order of the court by persons deemed by the court to  
21 have a proper interest therein, except that, subject to the  
22 provisions of s. 63.162, a child and the parents of the child  
23 and their attorneys, guardian ad litem, law enforcement  
24 agencies, and the department and its designees shall always  
25 have the right to inspect and copy any official record  
26 pertaining to the child. The Justice Administrative Commission  
27 may inspect court records required by this chapter as  
28 necessary to audit compensation of court-appointed attorneys.  
29 The court may permit authorized representatives of recognized  
30 organizations compiling statistics for proper purposes to  
31 inspect and make abstracts from official records, under

1 whatever conditions upon their use and disposition the court  
2 may deem proper, and may punish by contempt proceedings any  
3 violation of those conditions.

4 Section 24. Subsection (1) of section 39.821, Florida  
5 Statutes, is amended to read:

6 39.821 Qualifications of guardians ad litem.--

7 (1) Because of the special trust or responsibility  
8 placed in a guardian ad litem, the Guardian Ad Litem Program  
9 may use any private funds collected by the program, or any  
10 state funds so designated, to conduct a security background  
11 investigation before certifying a volunteer to serve. A  
12 security background investigation must include, but need not  
13 be limited to, employment history checks, checks of  
14 references, local criminal records checks through local law  
15 enforcement agencies, and statewide criminal records checks  
16 through the Department of Law Enforcement. Upon request, an  
17 employer shall furnish a copy of the personnel record for the  
18 employee or former employee who is the subject of a security  
19 background investigation conducted under this section. The  
20 information contained in the personnel record may include, but  
21 need not be limited to, disciplinary matters and the reason  
22 why the employee was terminated from employment. An employer  
23 who releases a personnel record for purposes of a security  
24 background investigation is presumed to have acted in good  
25 faith and is not liable for information contained in the  
26 record without a showing that the employer maliciously  
27 falsified the record. A security background investigation  
28 conducted under this section must ensure that a person is not  
29 certified as a guardian ad litem if the person has been  
30 convicted of, regardless of adjudication, or entered a plea of  
31 nolo contendere or guilty to, any offense prohibited under the

1 provisions of the Florida Statutes specified in s. 435.04(2)  
2 or under any similar law in another jurisdiction. Before  
3 certifying an applicant to serve as a guardian ad litem, the  
4 Guardian Ad Litem Program ~~chief judge of the circuit court~~ may  
5 request a federal criminal records check of the applicant  
6 through the Federal Bureau of Investigation. In analyzing and  
7 evaluating the information obtained in the security background  
8 investigation, the program must give particular emphasis to  
9 past activities involving children, including, but not limited  
10 to, child-related criminal offenses or child abuse. The  
11 program has the sole discretion in determining whether to  
12 certify a person based on his or her security background  
13 investigation. The information collected pursuant to the  
14 security background investigation is confidential and exempt  
15 from s. 119.07(1).

16 Section 25. Section 39.822, Florida Statutes, is  
17 amended to read:

18 39.822 Appointment of guardian ad litem for abused,  
19 abandoned, or neglected child.--

20 (1) A guardian ad litem shall be appointed by the  
21 court at the earliest possible time to represent the child in  
22 any child abuse, abandonment, or neglect judicial proceeding,  
23 whether civil or criminal. Any person participating in a civil  
24 or criminal judicial proceeding resulting from such  
25 appointment shall be presumed prima facie to be acting in good  
26 faith and in so doing shall be immune from any liability,  
27 civil or criminal, that otherwise might be incurred or  
28 imposed.

29 (2) In those cases in which the parents are  
30 financially able, the parent or parents of the child shall  
31 reimburse the court, in part or in whole, for the cost of

1 provision of guardian ad litem services. Reimbursement to the  
2 individual providing guardian ad litem services shall not be  
3 contingent upon successful collection by the court from the  
4 parent or parents.

5 (3) Upon presentation by a guardian ad litem of a  
6 court order appointing the guardian ad litem:

7 (a) An agency, defined in chapter 119, shall allow the  
8 guardian ad litem to inspect and copy records related to the  
9 best interests of the child who is the subject of the  
10 appointment, including, but not limited to, confidential and  
11 exempt records. The guardian ad litem shall maintain the  
12 confidential and exempt status of any records shared by an  
13 agency under this paragraph.

14 (b) A person or organization, other than an agency  
15 under paragraph (a), shall allow the guardian ad litem to  
16 inspect and copy records related to the best interests of the  
17 child who is the subject of the appointment.

18  
19 For the purposes of this subsection, the term "records related  
20 to the best interests of the child" includes, but is not  
21 limited to, medical, mental health, substance abuse, child  
22 care, education, law enforcement, court, social services, and  
23 financial records.

24 ~~(4)(3)~~ The guardian ad litem or the program  
25 representative shall review all disposition recommendations  
26 and changes in placements, and must be present at all critical  
27 stages of the dependency proceeding or submit a written report  
28 of recommendations to the court. Written reports must be filed  
29 with the court and served on all parties whose whereabouts are  
30 known at least 72 hours prior to the hearing.

31

1           Section 26. Subsection (1) of section 40.29, Florida  
2 Statutes, is amended to read:

3           40.29 Payment of due process costs.--

4           (1)(a) Each clerk of the circuit court, on behalf of  
5 the courts, the state attorney, and the public defender, shall  
6 forward to the Justice Administrative Commission, by county, a  
7 quarterly estimate of funds necessary to pay for ordinary  
8 witnesses, including, but not limited to, witnesses in civil  
9 traffic cases and witnesses of the state attorney, public  
10 defender, court-appointed counsel, and persons determined to  
11 be indigent for costs except expert witnesses paid pursuant to  
12 a contract or other professional services agreement, pursuant  
13 to ss. 29.005 and 29.006. Each quarter of the state fiscal  
14 year, the commission, based upon the estimates, shall advance  
15 funds to each clerk to pay for these ordinary witnesses from  
16 state funds specifically appropriated for the payment of  
17 ordinary witnesses.

18           (b) Each clerk of the circuit court shall forward to  
19 the Office of the State Courts Administrator, by county, a  
20 quarterly estimate of funds necessary to pay juror  
21 compensation.

22           Section 27. Section 40.355, Florida Statutes, is  
23 created to read:

24           40.355 Accounting and payment to public defenders and  
25 state attorneys.--The clerk of the court shall, within 2 weeks  
26 after the last day of the state's quarterly fiscal period,  
27 render to the state attorney and the public defender in each  
28 circuit a full statement of accounts for moneys received and  
29 disbursed under this chapter and, upon request of the state  
30 attorney or public defender, shall refund to the state  
31 attorney or public defender any balance in the clerk's hands.

1           Section 28. Subsection (7) is added to section 43.16,  
2 Florida Statutes, to read:

3           43.16 Justice Administrative Commission; membership,  
4 powers and duties.--

5           (7) Chapter 120 does not apply to the Justice  
6 Administrative Commission.

7           Section 29. Paragraph (b) of subsection (4) of section  
8 44.102, Florida Statutes, is amended to read:

9           44.102 Court-ordered mediation.--

10          (4) The chief judge of each judicial circuit shall  
11 maintain a list of mediators who have been certified by the  
12 Supreme Court and who have registered for appointment in that  
13 circuit.

14          (b) Nonvolunteer mediators shall be compensated  
15 according to rules adopted by the Supreme Court. If a  
16 mediation program is not funded pursuant to s. 44.108, a  
17 mediator may be compensated by the county or by the parties.  
18 ~~When a party has been declared indigent or insolvent, that~~  
19 ~~party's pro rata share of a mediator's compensation shall be~~  
20 ~~paid by the county at the rate set by administrative order of~~  
21 ~~the chief judge of the circuit.~~

22          Section 30. Section 44.108, Florida Statutes, is  
23 amended to read:

24          44.108 Funding of mediation and arbitration.--

25          (1) Mediation and arbitration should be accessible to  
26 all parties regardless of financial status. A filing fee of \$1  
27 is levied on all proceedings in the circuit or county courts  
28 to fund mediation and arbitration services which are the  
29 responsibility of the Supreme Court pursuant to the provisions  
30 of s. 44.106. The clerk of the court shall forward the moneys  
31

1 collected to the Department of Revenue for deposit in the  
2 state courts' Mediation and Arbitration Trust Fund.

3 (2) When court-ordered mediation services are provided  
4 by a circuit court's mediation program, the following fees,  
5 unless otherwise established in the General Appropriations  
6 Act, shall be collected by the clerk of court:

7 (a) Eighty dollars per person per scheduled session in  
8 family mediation when the parties' combined income is greater  
9 than \$50,000, but less than \$100,000 per year;

10 (b) Forty dollars per person per scheduled session in  
11 family mediation when the parties' combined income is less  
12 than \$50,000; or

13 (c) Forty dollars per person per scheduled session in  
14 county court cases.

15  
16 No mediation fees shall be assessed under this subsection in  
17 eviction cases, against a party found to be indigent, or for  
18 any small claims action. Fees collected by the clerk of court  
19 pursuant to this section shall be remitted to the Department  
20 of Revenue for deposit into the state courts' Mediation and  
21 Arbitration Trust Fund to fund court-ordered mediation. The  
22 clerk of court may deduct \$1 per fee assessment for processing  
23 this fee. The clerk of the court shall submit to the chief  
24 judge of the circuit, no later than 30 days after the end of  
25 each quarter, a report specifying the amount of funds  
26 collected under this section during each quarter of the fiscal  
27 year.

28 Section 31. Section 57.082, Florida Statutes, is  
29 created to read:

30 57.082 Determination of civil indigent status.--  
31

1           (1) APPLICATION TO THE CLERK.--A person seeking  
2 appointment of a private attorney in a civil case eligible for  
3 court-appointed counsel, or seeking relief from prepayment of  
4 fees and costs under s. 57.081, based upon an inability to pay  
5 must apply to the clerk of the court for a determination of  
6 civil indigent status using an application form developed by  
7 the Florida Clerks of Court Operations Corporation.

8           (a) The application must include, at a minimum, the  
9 following financial information:

10           1. Net income, consisting of total salary and wages,  
11 minus deductions required by law, including court-ordered  
12 support payments.

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

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

22           4. All liabilities and debts.

23  
24 The application must include a signature by the applicant  
25 which attests to the truthfulness of the information provided.  
26 The application form developed by the corporation must include  
27 notice that the applicant may seek court review of a clerk's  
28 determination that the applicant is not indigent, as provided  
29 in this section.

30           (b) The clerk shall assist a person who appears before  
31 the clerk and requests assistance in completing the



1 application, and the clerk shall notify the court if a person  
2 is unable to complete the application after the clerk has  
3 provided assistance.

4 (c) The clerk shall accept an application that is  
5 signed by the applicant and submitted on his or her behalf by  
6 a private attorney who is representing the applicant in the  
7 applicable matter.

8 (2) DETERMINATION BY THE CLERK.--The clerk of the  
9 court shall determine whether an applicant seeking such  
10 designation is indigent based upon the information provided in  
11 the application and the criteria prescribed in this  
12 subsection.

13 (a)1. An applicant, including an applicant who is a  
14 minor or an adult tax-dependent person, is indigent if the  
15 applicant's income is equal to or below 200 percent of the  
16 then-current federal poverty guidelines prescribed for the  
17 size of the household of the applicant by the United States  
18 Department of Health and Human Services.

19 2. There is a presumption that the applicant is not  
20 indigent if the applicant owns, has equity in, or has the  
21 expectancy of any interest in any intangible or tangible  
22 personal property or real property having a net equity value  
23 of \$2,500 or more, excluding the value of the person's  
24 homestead and one vehicle having a net value not exceeding  
25 \$5,000.

26 (b) Based upon its review, the clerk shall make one of  
27 the following determinations:

28 1. The applicant is not indigent.

29 2. The applicant is indigent.

30  
31

1           (c) If the clerk determines that the applicant is  
2 indigent, the clerk shall immediately file the determination  
3 in the case record.

4           (d) The duty of the clerk in determining whether an  
5 applicant is indigent, is limited to receiving the application  
6 and comparing the information provided in the application to  
7 the criteria prescribed in this subsection. The determination  
8 of indigent status is a ministerial act of the clerk and may  
9 not be based on further investigation or the exercise of  
10 independent judgment by the clerk. The clerk may contract with  
11 third parties to perform functions assigned to the clerk under  
12 this section.

13           (e) The applicant may seek review of the clerk's  
14 determination that the applicant is not indigent in the court  
15 having jurisdiction over the matter by filing a petition to  
16 review the clerk's determination of nonindigent status for  
17 which a filing fee may not be charged. If the applicant seeks  
18 review of the clerk's determination of indigent status, the  
19 court shall make a final determination as provided in  
20 subsection (4).

21           (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If  
22 the clerk of the court has not made a determination of  
23 indigent status at the time a person requests appointment of a  
24 private attorney in a civil case eligible for court-appointed  
25 counsel, the court shall make a preliminary determination of  
26 indigent status, pending further review by the clerk, and may,  
27 by court order, appoint private counsel on an interim basis.

28           (4) REVIEW OF THE CLERK'S DETERMINATION.--

29           (a) If the clerk of the court determines that the  
30 applicant is not indigent, and the applicant seeks review of  
31 the clerk's determination, the court shall make a final

1 determination of indigent status by reviewing the information  
2 provided in the application against the criteria prescribed in  
3 subsection (2) and by considering the following additional  
4 factors:

5 1. Whether paying for private counsel or other fees  
6 and costs creates a substantial hardship for the applicant or  
7 the applicant's family.

8 2. Whether the applicant is proceeding pro se or is  
9 represented by a private attorney for a fee or on a pro-bono  
10 basis.

11 3. When the applicant retained private counsel.

12 4. The amount of any attorney's fees and who is paying  
13 the fees.

14 5. Any other relevant financial circumstances of the  
15 applicant or the applicant's family.

16 (b) Based upon its review, the court shall make one of  
17 the following determinations and shall, if appropriate,  
18 appoint private counsel:

19 1. The applicant is not indigent.

20 2. The applicant is indigent.

21 (5) PROCESSING CHARGE; PAYMENT PLANS.--

22 (a) A person who the clerk or the court determines is  
23 indigent for civil proceedings under this section shall, upon  
24 the request of the party, be enrolled in a payment plan under  
25 s. 28.246 and shall be charged a one-time administrative  
26 processing charge under s. 28.24(26)(c). A monthly payment  
27 amount, calculated based upon all fees and all anticipated  
28 costs, is presumed to correspond to the person's ability to  
29 pay if it does not exceed 2 percent of the person's annual net  
30 income, as defined in subsection (1), divided by 12. The  
31 person may seek review of the clerk's decisions regarding a

1 payment plan established under s. 28.246 in the court having  
2 jurisdiction over the matter. A case may not be delayed in  
3 filing or delayed in its progress, including the final hearing  
4 and order, due to nonpayment of any fees by an indigent  
5 person.

6 (b) Notwithstanding paragraph (a), a person who the  
7 clerk or the court determines is indigent is entitled to the  
8 waiver of all costs for the services listed in s. 57.081 if  
9 that person's income is equal to or below 150 percent of the  
10 then-current federal poverty guidelines prescribed for the  
11 size of the household of the applicant by the United States  
12 Department of Health and Human Services or if the person is  
13 receiving Temporary Assistance for Needy Families-Cash  
14 Assistance, poverty-related veterans' benefits, or  
15 Supplemental Security Income (SSI).

16 (6) FINANCIAL DISCREPANCIES; FRAUD; FALSE  
17 INFORMATION.--

18 (a) If the court learns of discrepancies between the  
19 application and the actual financial status of the person  
20 found to be indigent, the court shall determine whether the  
21 status and any relief provided as a result of that status  
22 shall be revoked. The person may be heard regarding the  
23 information learned by the court. If the court, based on the  
24 information, determines that the person is not indigent, the  
25 court shall revoke the provision of any relief under this  
26 section.

27 (b) If the court has reason to believe that any  
28 applicant, through fraud or misrepresentation, was improperly  
29 determined to be indigent, the matter shall be referred to the  
30 state attorney. Twenty-five percent of any amount recovered by  
31 the state attorney as reasonable value of the services

1 rendered, including fees, charges, and costs paid by the state  
2 on the person's behalf, shall be remitted to the Department of  
3 Revenue for deposit into the Grants and Donations Trust Fund  
4 within the Justice Administrative Commission for appropriation  
5 by the Legislature to the state attorney. Seventy-five percent  
6 of any amount recovered shall be remitted to the Department of  
7 Revenue for deposit into the General Revenue Fund.

8 (c) A person who knowingly provides false information  
9 to the clerk or the court in seeking a determination of  
10 indigent status under this section commits a misdemeanor of  
11 the second degree, punishable as provided in s. 775.082 or s.  
12 775.083.

13 Section 32. Section 61.1828, Florida Statutes, is  
14 created to read:

15 61.1828 Court and witness fees non-Title IV-D cases;  
16 bond.--

17 (1) A non-Title IV-D county child support enforcement  
18 agency or an authorized agent thereof is entitled to the  
19 necessary services of the clerk and court reporter in any  
20 proceedings brought to enforce child support orders or to  
21 otherwise collect child support on behalf of eligible county  
22 residents, including contempt proceedings. Fees for such court  
23 reporter or clerk services may not be charged against the  
24 agency or agency's client. A bond is not required of the  
25 agency for any action taken to enforce child support orders or  
26 to otherwise collect child support on behalf of eligible  
27 county residents, except by order of the court. This  
28 subsection does not prevent the depository from charging and  
29 collecting fees for services rendered.

30 (2) Notwithstanding s. 28.241, each clerk of the  
31 circuit court shall accept petitions, complaints, and motions

1 filed by a non-Title IV-D county child support enforcement  
2 agency or an authorized agent thereof in non-Title IV-D cases  
3 and may not collect any fees from the non-Title IV-D county  
4 child support enforcement agency or the agency's client.

5 (3) Witness fees may not be paid to any party to a  
6 petition or complaint or to any parent or legal custodian of a  
7 dependent child described in a petition or complaint filed by  
8 a non-Title IV-D county child support enforcement agency or an  
9 authorized agent thereof.

10 (4) As used in this section, the term "non-Title IV-D  
11 county child support enforcement agency" has the same meaning  
12 as in s. 61.1827(3).

13 Section 33. Subsection (1) of section 92.142, Florida  
14 Statutes, is amended to read:

15 92.142 Witnesses; pay.--

16 (1) Witnesses in all cases, civil and criminal, in all  
17 courts, now or hereafter created, and witnesses summoned  
18 before any arbitrator or general or special magistrate  
19 appointed by the court shall receive for each day's actual  
20 attendance \$5 and also 6 cents per mile for actual distance  
21 traveled to and from the courts. A witness in a criminal case  
22 required to appear in a county other than the county of his or  
23 her residence and residing more than 50 miles from the  
24 location of the trial shall be entitled to per diem and travel  
25 expenses at the same rate provided for state employees under  
26 s. 112.061, in lieu of any other witness fee ~~at the discretion~~  
27 ~~of the court.~~

28 Section 34. Subsection (1) of section 116.01, Florida  
29 Statutes, is amended to read:

30 116.01 Payment of public funds into treasury.--

31

1           (1) Every state and county officer within this state  
2 authorized to collect funds due the state or county shall pay  
3 all sums officially received by the officer into the state or  
4 county treasury not later than 7 working days from the close  
5 of the week in which the officer received the funds. Funds  
6 received by the county officer on behalf of the state shall be  
7 deposited directly to the account of the State Treasury not  
8 later than 7 working days from the close of the week in which  
9 the officer received the funds. The clerk of the court, when  
10 collecting funds as part of the clerk's court-related  
11 functions, must remit those funds as required under s. 28.245.

12           Section 35. Paragraph (gg) of subsection (6) of  
13 section 119.07, Florida Statutes, is amended to read:

14           119.07 Inspection and copying of records;  
15 photographing public records; fees; exemptions.--

16           (6)

17           (gg)1. Until January 1, 2007 ~~2006~~, if a social  
18 security number, made confidential and exempt pursuant to s.  
19 119.0721, created pursuant to s. 1, ch. 2002-256, passed  
20 during the 2002 regular legislative session, or a complete  
21 bank account, debit, charge, or credit card number made exempt  
22 pursuant to paragraph (dd), created pursuant to s. 1, ch.  
23 2002-257, passed during the 2002 regular legislative session,  
24 is or has been included in a court file, such number may be  
25 included as part of the court record available for public  
26 inspection and copying unless redaction is requested by the  
27 holder of such number, or by the holder's attorney or legal  
28 guardian, in a signed, legibly written request specifying the  
29 case name, case number, document heading, and page number. The  
30 request must be delivered by mail, facsimile, electronic  
31 transmission, or in person to the clerk of the circuit court.

1 The clerk of the circuit court does not have a duty to inquire  
2 beyond the written request to verify the identity of a person  
3 requesting redaction. A fee may not be charged for the  
4 redaction of a social security number or a bank account,  
5 debit, charge, or credit card number pursuant to such request.

6       2. Any person who prepares or files a document to be  
7 recorded in the official records by the county recorder as  
8 provided in chapter 28 may not include a person's social  
9 security number or complete bank account, debit, charge, or  
10 credit card number in that document unless otherwise expressly  
11 required by law. Until January 1, 2007 ~~2006~~, if a social  
12 security number or a complete bank account, debit, charge or  
13 credit card number is or has been included in a document  
14 presented to the county recorder for recording in the official  
15 records of the county, such number may be made available as  
16 part of the official record available for public inspection  
17 and copying. Any person, or his or her attorney or legal  
18 guardian, may request that a county recorder remove from an  
19 image or copy of an official record placed on a county  
20 recorder's publicly available Internet website, or a publicly  
21 available Internet website used by a county recorder to  
22 display public records outside the office or otherwise made  
23 electronically available outside the county recorder's office  
24 to the general public, his or her social security number or  
25 complete account, debit, charge, or credit card number  
26 contained in that official record. Such request must be  
27 legibly written, signed by the requester, and delivered by  
28 mail, facsimile, electronic transmission, or in person to the  
29 county recorder. The request must specify the identification  
30 page number of the document that contains the number to be  
31 redacted. The county recorder does not have a duty to inquire



1 beyond the written request to verify the identity of a person  
2 requesting redaction. A fee may not be charged for redacting  
3 such numbers.

4 3. Upon the effective date of this act, subsections  
5 (3) and (4) of s. 119.0721, do not apply to the clerks of the  
6 court or the county recorder with respect to circuit court  
7 records and official records.

8 4. On January 1, 2007 ~~2006~~, and thereafter, the clerk  
9 of the circuit court and the county recorder must keep  
10 complete bank account, debit, charge, and credit card numbers  
11 exempt as provided for in paragraph (dd), and must keep social  
12 security numbers confidential and exempt as provided for in s.  
13 119.0721, without any person having to request redaction.

14 Section 36. Section 142.01, Florida Statutes, is  
15 amended to read:

16 142.01 Fine and forfeiture fund; clerk of the circuit  
17 court.--There shall be established by the clerk of the circuit  
18 court in each county of this state a separate fund to be known  
19 as the fine and forfeiture fund for use by the clerk of the  
20 circuit court in performing court-related functions. The fund  
21 shall consist of the following:

22 (1) Fines and penalties pursuant to ss. 28.2402(2),  
23 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

24 (2) That portion of civil penalties directed to this  
25 fund pursuant to s. 318.21.

26 (3) Court costs pursuant to ss. 28.2402(1)(b),  
27 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and  
28 (11)(a), and 938.05(3).

29 (4) Proceeds from forfeited bail bonds, unclaimed  
30 bonds, unclaimed moneys, or recognizances pursuant to ss.  
31 321.05(4)(a), 372.72(1), and 903.26(3)(a).

1 (5) Fines and forfeitures pursuant to s. 34.191.

2 (6) All other revenues received by the clerk as  
3 revenue authorized by law to be retained by the clerk.

4  
5 Notwithstanding the provisions of this section, all fines and  
6 forfeitures arising from operation of the provisions of s.  
7 318.1215 shall be disbursed in accordance with that section.

8 Section 37. Subsection (5) is added to section 213.13,  
9 Florida Statutes, to read:

10 213.13 Electronic remittance and distribution of funds  
11 collected by clerks of the court.--

12 (5) All court-related collections, including fees,  
13 finances, reimbursements, court costs, and other court-related  
14 funds that the clerks must remit to the state pursuant to law,  
15 must be transmitted electronically by the 20th day of the  
16 month immediately following the month in which the funds are  
17 collected.

18 Section 38. Section 219.07, Florida Statutes, is  
19 amended to read:

20 219.07 Disbursements.--Each officer shall, not later  
21 than 7 working days from the close of the week in which the  
22 officer received the funds, distribute the money which is  
23 required to be paid to other officers, agencies, funds, or  
24 persons entitled to receive the same; provided, that  
25 distributions or partial distributions may be made more  
26 frequently; and provided further, that money required by law  
27 or court order, or by the purpose for which it was collected,  
28 to be held and disbursed for a particular purpose in a manner  
29 different from that set out herein shall be held and disbursed  
30 accordingly. Further, money collected by the county officer on  
31 behalf of the state, except for money collected by the clerk

1 of the court as part of court-related functions, shall be  
2 deposited directly to the account of the State Treasury not  
3 later than 7 working days from the close of the week in which  
4 the officer received the funds. The clerk of the court, when  
5 collecting money as part of the clerk's court-related  
6 functions, must remit that money as required under s. 28.245.

7 Section 39. Subsection (1) of section 219.075, Florida  
8 Statutes, is amended to read:

9 219.075 Investment of surplus funds by county  
10 officers.--

11 (1)(a) Except when another procedure is prescribed by  
12 law or by ordinance as to particular funds, a tax collector or  
13 any other county officer having, receiving, or collecting any  
14 money, either for his or her office or on behalf of and  
15 subject to subsequent distribution to another officer of state  
16 or local government, while such money is in excess of that  
17 required to meet current expenses or is pending distribution,  
18 shall invest such money, without limitation, as provided in s.  
19 218.415.

20 (b) These investments shall be planned so as not to  
21 slow the normal distribution of the subject funds. The  
22 investment earnings shall be reasonably apportioned and  
23 allocated and shall be credited to the account of, and paid  
24 to, the office or distributee, together with the principal on  
25 which such earnings accrued.

26 (c) This section does not apply to the clerk of the  
27 circuit court with respect to money collected as part of the  
28 clerk's court-related functions. The clerk, however, shall  
29 remit this money as provided under s. 28.245.

30 Section 40. Section 318.121, Florida Statutes, is  
31 amended to read:

1           318.121 Preemption of additional fees, fines,  
2 surcharges, and costs.--Notwithstanding any general or special  
3 law, or municipal or county ordinance, additional fees, fines,  
4 surcharges, or costs, other than the court costs and  
5 surcharges assessed under s. 318.18(11) and (13), may not be  
6 added to the civil traffic penalties assessed in this chapter.

7           Section 41. Subsection (13) of section 318.18, Florida  
8 Statutes, is amended to read:

9           318.18 Amount of civil penalties.--The penalties  
10 required for a noncriminal disposition pursuant to s. 318.14  
11 are as follows:

12           (13) In addition to any penalties imposed for  
13 noncriminal traffic infractions pursuant to this chapter or  
14 imposed for criminal violations listed in s. 318.17, a board  
15 of county commissioners or any unit of local government which  
16 is consolidated as provided by s. 9, Art. VIII of the State  
17 Constitution of 1885, as preserved by s. 6(e), Art. VIII of  
18 the Constitution of 1968:

19           (a) May impose by ordinance a surcharge of up to \$15  
20 for any infraction or violation to fund state court  
21 facilities. The court shall not waive this surcharge.

22           (b) That imposed increased fees or service charges by  
23 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the  
24 purpose of securing payment of the principal and interest on  
25 bonds issued by the county before July 1, 2003, to finance  
26 state court facilities, may impose by ordinance a surcharge  
27 for any infraction or violation for the exclusive purpose of  
28 securing payment of the principal and interest on bonds issued  
29 by the county before July 1, 2003, to fund state court  
30 facilities until the date of stated maturity. The court shall  
31 not waive this surcharge. Such surcharge may not exceed an

1 amount per violation calculated as the quotient of the maximum  
2 annual payment of the principal and interest on the bonds as  
3 of July 1, 2003, divided by the number of traffic citations  
4 for county fiscal year 2002-2003 certified as paid by the  
5 clerk of the court of the county. Such quotient shall be  
6 rounded up to the next highest dollar amount. The bonds may be  
7 refunded only if savings will be realized on payments of debt  
8 service and the refunding bonds are scheduled to mature on the  
9 same date or before the bonds being refunded.

10

11 A county may not impose both of the surcharges authorized  
12 under paragraphs (a) and (b) concurrently. The clerk of court  
13 shall report, no later than 30 days after the end of the  
14 quarter, the amount of funds collected under this subsection  
15 during each quarter of the fiscal year. The clerk shall submit  
16 the report, in a format developed by the Office of State  
17 Courts Administrator, to the chief judge of the circuit, the  
18 Governor, the President of the Senate, and the Speaker of the  
19 House of Representatives.

20

Section 42. Paragraph (g) of subsection (2) of section  
21 318.21, Florida Statutes, is amended to read:

22

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

26

(2) Of the remainder:

27

(g)1. If the violation occurred within a special  
28 improvement district of the Seminole Indian Tribe or  
29 Miccosukee Indian Tribe, 56.4 percent shall be paid to that  
30 special improvement district.

31

1           2. If the violation occurred within a municipality,  
2 50.8 percent shall be paid to that municipality and 5.6  
3 percent shall be deposited into the fine and forfeiture trust  
4 fund established pursuant to s. 142.01.

5           3. If the violation occurred within the unincorporated  
6 area of a county that is not within a special improvement  
7 district of the Seminole Indian Tribe or Miccosukee Indian  
8 Tribe or, notwithstanding subparagraph 2., if the violation  
9 occurred within the unincorporated area of a municipality  
10 having a consolidated government under s. 6(e), Article VIII  
11 of the State Constitution, 56.4 percent shall be deposited  
12 into the fine and forfeiture fund established pursuant to s.  
13 142.01.

14           Section 43. Section 318.31, Florida Statutes, is  
15 amended to read:

16           318.31 Objectives.--The Supreme Court is hereby  
17 requested to adopt rules and procedures for the establishment  
18 and operation of Civil Traffic Infraction Hearing Officer  
19 Programs under ss. 318.30-318.38. ~~However, the appointment of~~  
20 ~~a hearing officer shall be at the option of the county~~  
21 ~~electing to establish such a program, upon recommendation by~~  
22 ~~the county court judge or judges, as the case may be, and the~~  
23 ~~Chief Judge of the Circuit and approval by the Chief Justice~~  
24 ~~of the Supreme Court.~~

25           Section 44. Section 318.325, Florida Statutes, is  
26 amended to read:

27           318.325 Jurisdiction and procedure for parking  
28 infractions.--Any county or municipality may adopt an  
29 ordinance that allows the county or municipality to refer  
30 cases involving the violation of a county or municipal parking  
31 ordinance to a hearing officer ~~funded by the county or~~

1 ~~municipality~~. Notwithstanding the provisions of ss. 318.14 and  
2 775.08(3), any parking violation shall be deemed to be an  
3 infraction as defined in s. 318.13(3). However, the violation  
4 must be enforced and disposed of in accordance with the  
5 provisions of general law applicable to parking violations and  
6 with the charter or code of the county or municipality where  
7 the violation occurred. The clerk of the court or the  
8 designated traffic violations bureau must collect and  
9 distribute the fines, forfeitures, and court costs assessed  
10 under this section.

11 Section 45. Section 322.29, Florida Statutes, is  
12 amended to read:

13 322.29 Surrender and return of license.--

14 (1) The department, upon suspending or revoking a  
15 license, shall require that such license be surrendered to the  
16 department. At the end of the period of suspension, such  
17 license so surrendered shall be returned, or a duplicate  
18 license issued, to the licensee after the applicant has  
19 successfully passed the vision, sign, and traffic law  
20 examinations. In addition, pursuant to s. 322.221, the  
21 department may require the licensee to successfully complete a  
22 driving examination. The department is prohibited from  
23 requiring the surrender of a license except as authorized by  
24 this chapter.

25 (2) The provisions of subsection (1) to the contrary  
26 notwithstanding, no examination is required for the return of  
27 a license suspended under s. 318.15 or s. 322.245 unless an  
28 examination is otherwise required by this chapter. Every  
29 person applying for the return of a license suspended under s.  
30 318.15 or s. 322.245 shall present to the department  
31 certification from the court that he or she has complied with

1 all obligations and penalties imposed on him or her pursuant  
2 to s. 318.15 or, in the case of a suspension pursuant to s.  
3 322.245, that he or she has complied with all directives of  
4 the court and the requirements of s. 322.245 and shall pay to  
5 the department a nonrefundable service fee of ~~\$47.50~~\$35, of  
6 which ~~\$37.50~~\$25 shall be deposited into the General Revenue  
7 Fund and \$10 shall be deposited into the Highway Safety  
8 Operating Trust Fund. If reinstated by the clerk of the court  
9 or tax collector, ~~\$37.50~~\$25 shall be retained and \$10 shall  
10 be remitted to the Department of Revenue for deposit into the  
11 Highway Safety Operating Trust Fund. However, the service fee  
12 is not required if the person is required to pay a \$35 fee or  
13 \$60 fee under the provisions of s. 322.21.

14 Section 46. Section 372.72, Florida Statutes, is  
15 amended to read:

16 372.72 Disposition of fines, penalties, and  
17 forfeitures.--

18 (1) All moneys collected from fines, penalties,  
19 proceeds from unclaimed bonds, or forfeitures of bail of  
20 persons convicted under this chapter shall be deposited in the  
21 fine and forfeiture fund established pursuant to s. 142.01  
22 where such convictions are had, except for the disposition of  
23 moneys as provided in subsection (2).

24 (2) All moneys collected from fines, penalties, or  
25 forfeitures of bail of persons convicted of violations of  
26 rules, regulations, or orders of the Fish and Wildlife  
27 Conservation Commission concerning endangered or threatened  
28 species or of violation of s. 372.662, s. 372.663, s. 372.667,  
29 or s. 372.671 shall be remitted by the clerk of the court to  
30 the Department of Revenue to be deposited in the Nongame  
31 Wildlife Trust Fund.



1           Section 47. Subsection (8) of section 903.26, Florida  
2 Statutes, is amended to read:

3           903.26 Forfeiture of the bond; when and how directed;  
4 discharge; how and when made; effect of payment.--

5           (8) If the defendant is arrested and returned to the  
6 county of jurisdiction of the court prior to judgment, the  
7 clerk, upon affirmation by the sheriff or the chief  
8 correctional officer, shall, without further order of the  
9 court, discharge the forfeiture of the bond. However, if the  
10 surety agent fails to pay the costs and expenses incurred in  
11 returning the defendant to the county of jurisdiction, the  
12 clerk shall not discharge the forfeiture of the bond. If the  
13 surety agent and the sheriff ~~state attorney~~ fail to agree on  
14 the amount of said costs, then the court, after notice to the  
15 sheriff and the state attorney, shall determine the amount of  
16 the costs.

17           Section 48. Section 903.28, Florida Statutes, is  
18 amended to read:

19           903.28 Remission of forfeiture; conditions.--

20           (1) On application within 2 years from forfeiture, the  
21 court shall order remission of the forfeiture if it determines  
22 that there was no breach of the bond.

23           (2) If the defendant surrenders or is apprehended  
24 within 90 days after forfeiture, the court, on motion at a  
25 hearing upon notice having been given to the clerk of the  
26 circuit court ~~county attorney~~ and the state attorney as  
27 required in subsection (8), shall direct remission of up to,  
28 but not more than, 100 percent of a forfeiture if the surety  
29 apprehended and surrendered the defendant or if the  
30 apprehension or surrender of the defendant was substantially  
31 procured or caused by the surety, or the surety has

1 substantially attempted to procure or cause the apprehension  
2 or surrender of the defendant, and the delay has not thwarted  
3 the proper prosecution of the defendant. In addition,  
4 remission shall be granted when the surety did not  
5 substantially participate or attempt to participate in the  
6 apprehension or surrender of the defendant when the costs of  
7 returning the defendant to the jurisdiction of the court have  
8 been deducted from the remission and when the delay has not  
9 thwarted the proper prosecution of the defendant.

10 (3) If the defendant surrenders or is apprehended  
11 within 180 days after forfeiture, the court, on motion at a  
12 hearing upon notice having been given to the clerk of the  
13 circuit court ~~county attorney~~ and the state attorney as  
14 required in subsection (8), shall direct remission of up to,  
15 but not more than, 95 percent of a forfeiture if the surety  
16 apprehended and surrendered the defendant or if the  
17 apprehension or surrender of the defendant was substantially  
18 procured or caused by the surety, or the surety has  
19 substantially attempted to procure or cause the apprehension  
20 or surrender of the defendant, and the delay has not thwarted  
21 the proper prosecution of the defendant. In addition,  
22 remission shall be granted when the surety did not  
23 substantially participate or attempt to participate in the  
24 apprehension or surrender of the defendant when the costs of  
25 returning the defendant to the jurisdiction of the court have  
26 been deducted from the remission and when the delay has not  
27 thwarted the proper prosecution of the defendant.

28 (4) If the defendant surrenders or is apprehended  
29 within 270 days after forfeiture, the court, on motion at a  
30 hearing upon notice having been given to the clerk of the  
31 circuit court ~~county attorney~~ and the state attorney as

1 required in subsection (8), shall direct remission of up to,  
2 but not more than, 90 percent of a forfeiture if the surety  
3 apprehended and surrendered the defendant or if the  
4 apprehension or surrender of the defendant was substantially  
5 procured or caused by the surety, or the surety has  
6 substantially attempted to procure or cause the apprehension  
7 or surrender of the defendant, and the delay has not thwarted  
8 the proper prosecution of the defendant. In addition,  
9 remission shall be granted when the surety did not  
10 substantially participate or attempt to participate in the  
11 apprehension or surrender of the defendant when the costs of  
12 returning the defendant to the jurisdiction of the court have  
13 been deducted from the remission and when the delay has not  
14 thwarted the proper prosecution of the defendant.

15 (5) If the defendant surrenders or is apprehended  
16 within 1 year after forfeiture, the court, on motion at a  
17 hearing upon notice having been given to the clerk of the  
18 circuit court ~~county attorney~~ and the state attorney as  
19 required in subsection (8), shall direct remission of up to,  
20 but not more than, 85 percent of a forfeiture if the surety  
21 apprehended and surrendered the defendant or if the  
22 apprehension or surrender of the defendant was substantially  
23 procured or caused by the surety, or the surety has  
24 substantially attempted to procure or cause the apprehension  
25 or surrender of the defendant, and the delay has not thwarted  
26 the proper prosecution of the defendant. In addition,  
27 remission shall be granted when the surety did not  
28 substantially participate or attempt to participate in the  
29 apprehension or surrender of the defendant when the costs of  
30 returning the defendant to the jurisdiction of the court have  
31

1 | been deducted from the remission and when the delay has not  
2 | thwarted the proper prosecution of the defendant.

3 |         (6) If the defendant surrenders or is apprehended  
4 | within 2 years after forfeiture, the court, on motion at a  
5 | hearing upon notice having been given to the clerk of the  
6 | circuit court ~~county attorney~~ and the state attorney as  
7 | required in subsection (8), shall direct remission of up to,  
8 | but not more than, 50 percent of a forfeiture if the surety  
9 | apprehended and surrendered the defendant or if the  
10 | apprehension or surrender of the defendant was substantially  
11 | procured or caused by the surety, or the surety has  
12 | substantially attempted to procure or cause the apprehension  
13 | or surrender of the defendant, and the delay has not thwarted  
14 | the proper prosecution of the defendant. In addition,  
15 | remission shall be granted when the surety did not  
16 | substantially participate or attempt to participate in the  
17 | apprehension or surrender of the defendant when the costs of  
18 | returning the defendant to the jurisdiction of the court have  
19 | been deducted from the remission and when the delay has not  
20 | thwarted the proper prosecution of the defendant.

21 |         (7) The remission of a forfeiture may not be ordered  
22 | for any reason other than as specified herein.

23 |         (8) An application for remission must be accompanied  
24 | by affidavits setting forth the facts on which it is founded;  
25 | however, the surety must establish by further documentation or  
26 | other evidence any claimed attempt at procuring or causing the  
27 | apprehension or surrender of the defendant before the court  
28 | may order remission based upon an attempt to procure or cause  
29 | such apprehension or surrender. The clerk of the circuit court  
30 | and the state attorney must be given 20 days' notice before a  
31 | hearing on an application and be furnished copies of all

1 papers, applications, and affidavits. Remission shall be  
2 granted on the condition of payment of costs, unless the  
3 ground for remission is that there was no breach of the bond.

4 (9) The clerk of the circuit court may enter into a  
5 contract with a private attorney or into an interagency  
6 agreement with a governmental agency to represent the clerk of  
7 the court in an action for the remission of a forfeiture under  
8 this section.

9 (10) The clerk of the circuit is the real party in  
10 interest for all appeals arising from an action for the  
11 remission of a forfeiture under this section.

12 Section 49. Section 916.115, Florida Statutes, is  
13 amended to read:

14 916.115 Appointment of experts.--

15 (1)(a) Annually, the department shall provide the  
16 courts with a list of mental health professionals who have  
17 completed approved training as experts.

18 (b) The court may appoint no more than three ~~nor fewer~~  
19 ~~than two~~ experts to determine issues of the mental condition  
20 of a defendant in a criminal case, including the issues of  
21 competency to proceed, insanity, and involuntary  
22 hospitalization or placement. An expert ~~The panel of experts~~  
23 may evaluate the defendant in jail or in another appropriate  
24 local facility.

25 (c) To the extent possible, an ~~the~~ appointed expert  
26 ~~experts~~ shall have completed forensic evaluator training  
27 approved by the department and be either a psychiatrist,  
28 licensed psychologist, or physician.

29 (2) Expert witnesses appointed by the court to  
30 evaluate the mental condition of a defendant in a criminal  
31 case shall be allowed reasonable fees for services rendered as

1 evaluators of competence or sanity and as witnesses, ~~which~~  
2 ~~shall be paid by the county in which the indictment was found~~  
3 ~~or the information or affidavit was filed.~~

4 (a)1. The court shall pay for any expert that it  
5 appoints by court order, upon motion of counsel for the  
6 defendant or the state or upon its own motion, using funds  
7 specifically appropriated on behalf of the state courts for  
8 due process costs. If the defense or the state retains an  
9 expert and waives the confidentiality of the expert's report,  
10 the court may pay for no more than two additional experts  
11 appointed by court order. If an expert appointed by the court  
12 upon motion of counsel for the defendant specifically to  
13 evaluate the competence of the defendant to proceed also  
14 addresses in his or her evaluation issues related to sanity as  
15 an affirmative defense, the court shall pay only for that  
16 portion of the experts' fees relating to the evaluation on  
17 competency to proceed, and the balance of the fees shall be  
18 chargeable to the defense.

19 2. Pursuant to s. 29.006, the office of the public  
20 defender shall pay for any expert it retains.

21 3. Pursuant to s. 29.005, the office of the state  
22 attorney shall pay for any expert it retains. Notwithstanding  
23 subparagraph 1., the office of the state attorney shall pay  
24 for any expert whom it retains and whom it moves the court to  
25 appoint in order to ensure that the expert has access to the  
26 defendant.

27 4. An expert retained by the defendant who is  
28 represented by private counsel appointed under s. 27.5303  
29 shall be paid by the Justice Administrative Commission from  
30 funds specifically appropriated for such expenses.

31

1           5. An expert retained by a defendant who is indigent  
2 for costs as determined by the court and who is represented by  
3 private counsel, other than private counsel appointed under s.  
4 27.5303, on a fee or pro bono basis, or who is representing  
5 himself or herself, shall be paid by the Justice  
6 Administrative Commission from funds specifically appropriated  
7 for these expenses.

8           (b) State employees shall be paid expenses pursuant to  
9 s. 112.061.

10           (c) The fees shall be taxed as costs in the case.

11           (d) In order for an expert ~~the experts~~ to be paid for  
12 the services rendered, the expert's report ~~reports~~ and  
13 testimony must explicitly address each of the factors and  
14 follow the procedures set out in this chapter and in the  
15 Florida Rules of Criminal Procedure.

16           Section 50. Subsections (2), (3), and (4) of section  
17 916.12, Florida Statutes, are amended to read:

18           916.12 Mental competence to proceed.--

19           (2) An expert ~~The experts~~ shall first determine  
20 whether the person is mentally ill and, if so, consider the  
21 factors related to the issue of whether the defendant meets  
22 the criteria for competence to proceed; that is, whether the  
23 defendant has sufficient present ability to consult with  
24 counsel with a reasonable degree of rational understanding and  
25 whether the defendant has a rational, as well as factual,  
26 understanding of the pending proceedings. A defendant must be  
27 evaluated by no fewer than two experts before the court  
28 commits the defendant or takes other action authorized by this  
29 chapter or the Florida Rules of Criminal Procedure, except  
30 that if one expert finds that the defendant is incompetent to  
31 proceed and the parties stipulate to that finding, the court

1 may commit the defendant or take other action authorized by  
2 this chapter or the rules without further evaluation or  
3 hearing, or the court may appoint no more than two additional  
4 experts to evaluate the defendant. Notwithstanding any  
5 stipulation by the state and the defendant, the court may  
6 require a hearing with testimony from the expert or experts  
7 before ordering the commitment of a defendant.

8 (3) In considering the issue of competence to proceed,  
9 an the examining expert ~~experts~~ shall first consider and  
10 specifically include in his or her ~~their~~ report the  
11 defendant's capacity to:

12 (a) Appreciate the charges or allegations against the  
13 defendant;

14 (b) Appreciate the range and nature of possible  
15 penalties, if applicable, that may be imposed in the  
16 proceedings against the defendant;

17 (c) Understand the adversarial nature of the legal  
18 process;

19 (d) Disclose to counsel facts pertinent to the  
20 proceedings at issue;

21 (e) Manifest appropriate courtroom behavior; and

22 (f) Testify relevantly;

23  
24 and include in his or her ~~their~~ report any other factor deemed  
25 relevant by the expert ~~experts~~.

26 (4) If an expert finds ~~the experts should find~~ that  
27 the defendant is incompetent to proceed, the expert ~~experts~~  
28 shall report on any recommended treatment for the defendant to  
29 attain competence to proceed. In considering the issues  
30 relating to treatment, the examining expert ~~experts~~ shall  
31 specifically report on:



- 1           (a) The mental illness causing the incompetence;
- 2           (b) The treatment or treatments appropriate for the
- 3 mental illness of the defendant and an explanation of each of
- 4 the possible treatment alternatives in order of choices;
- 5           (c) The availability of acceptable treatment and, if
- 6 treatment is available in the community, the expert shall so
- 7 state in the report; and
- 8           (d) The likelihood of the defendant's attaining
- 9 competence under the treatment recommended, an assessment of
- 10 the probable duration of the treatment required to restore
- 11 competence, and the probability that the defendant will attain
- 12 competence to proceed in the foreseeable future.

13           Section 51. Subsection (7) of section 916.301, Florida

14 Statutes, is amended to read:

15           916.301 Appointment of experts.--

16           (7) Expert witnesses appointed by the court to

17 evaluate the mental condition of a defendant in a criminal

18 case shall be allowed reasonable fees for services rendered as

19 evaluators and as witnesses, which shall be paid by the court

20 ~~county in which the indictment was found or the information or~~

21 ~~affidavit was filed.~~ State employees shall be paid expenses

22 pursuant to s. 112.061. The fees shall be taxed as costs in

23 the case. In order for the experts to be paid for the services

24 rendered, the reports and testimony must explicitly address

25 each of the factors and follow the procedures set out in this

26 chapter and in the Florida Rules of Criminal Procedure.

27           Section 52. Subsection (2) of section 938.29, Florida

28 Statutes, is amended to read:

29           938.29 Legal assistance; lien for payment of

30 attorney's fees or costs.--

31

1           (2)(a) There is created in the name of the state a  
2 lien, enforceable as hereinafter provided, upon all the  
3 property, both real and personal, of any person who:

4           1. Has received any assistance from any public  
5 defender of the state, from any special assistant public  
6 defender, or from any conflict attorney; or

7           2. Is a parent of an accused minor or an accused adult  
8 tax-dependent person who is being, or has been, represented by  
9 any public defender of the state, by any special assistant  
10 public defender, or by a conflict attorney.

11  
12 Such lien constitutes a claim against the defendant-recipient  
13 or parent and his or her estate, enforceable according to law.

14           (b) A judgment showing the name and residence of the  
15 defendant-recipient or parent shall be recorded in the public  
16 record, without cost, by ~~filed for record in the office of the~~  
17 clerk of the circuit court in the county where the  
18 defendant-recipient or parent resides and in each county in  
19 which such defendant-recipient or parent then owns or later  
20 acquires any property. Such judgments shall be enforced on  
21 behalf of the state by the clerk of the circuit court of the  
22 county in which assistance was rendered.

23           Section 53. Section 939.06, Florida Statutes, is  
24 amended to read:

25           939.06 Acquitted defendant not liable for costs.--

26           (1) A ~~No~~ defendant in a criminal prosecution who is  
27 acquitted or discharged is not ~~shall be~~ liable for any costs  
28 or fees of the court or any ministerial office, or for any  
29 charge of subsistence while detained in custody. If the  
30 defendant has ~~shall have~~ paid any taxable costs, or fees  
31 required under s. 27.52(1)(b), in the case, the clerk or judge

1 shall give him or her a certificate of the payment of such  
2 costs, with the items thereof, which, when audited and  
3 approved according to law, shall be refunded to the defendant.

4 (2) To receive a refund under this section, a  
5 defendant must submit a request for the refund to the Justice  
6 Administrative Commission on a form and in a manner prescribed  
7 by the commission. The defendant must attach to the form an  
8 order from the court demonstrating the defendant's right to  
9 the refund and the amount of the refund.

10 Section 54. Subsection (2) of section 985.05, Florida  
11 Statutes, is amended to read:

12 985.05 Court records.--

13 (2) The clerk shall keep all official records required  
14 by this section separate from other records of the circuit  
15 court, except those records pertaining to motor vehicle  
16 violations, which shall be forwarded to the Department of  
17 Highway Safety and Motor Vehicles. Except as provided in ss.  
18 943.053 and 985.04(4), official records required by this part  
19 are not open to inspection by the public, but may be inspected  
20 only upon order of the court by persons deemed by the court to  
21 have a proper interest therein, except that a child and the  
22 parents, guardians, or legal custodians of the child and their  
23 attorneys, law enforcement agencies, the Department of  
24 Juvenile Justice and its designees, the Parole Commission, ~~and~~  
25 the Department of Corrections, and the Justice Administrative  
26 Commission shall always have the right to inspect and copy any  
27 official record pertaining to the child. The court may permit  
28 authorized representatives of recognized organizations  
29 compiling statistics for proper purposes to inspect, and make  
30 abstracts from, official records under whatever conditions  
31 upon the use and disposition of such records the court may

1 deem proper and may punish by contempt proceedings any  
2 violation of those conditions.

3           Section 55. Compensation to traffic court  
4 witnesses.--Any party who secures the attendance of a witness  
5 in traffic court shall bear all costs of calling the witness,  
6 including witness fees. If the witness is required to testify  
7 on behalf of the prosecution, the office of the state attorney  
8 of the respective judicial circuit shall pay the fees and  
9 costs of calling the witness.

10           Section 56. Recovery of expenditures for state-funded  
11 services.--The trial court administrator of each circuit may  
12 recover expenditures for state-funded services when those  
13 services have been furnished to a user of the state court  
14 system who possesses the present ability to pay. The rate of  
15 compensation for such services shall be determined by the  
16 chief judge of the circuit and may not exceed the actual cost  
17 of the services, including the cost of recovery. The trial  
18 court administrator shall deposit moneys recovered under this  
19 section in the Grants and Donations Trust Fund within the  
20 state court system. The trial court administrator may recover  
21 the costs of court-reporter services and transcription;  
22 court-interpreter services, including translation; and any  
23 other service for which state funds were used to provide a  
24 product or service within the circuit. This section does not  
25 authorize cost recovery from entities described in ss. 29.005,  
26 29.006, and 29.007.

27           Section 57. Subsection (4) of section 29.005, Florida  
28 Statutes, is repealed,

29           Section 58. Section 318.37, Florida Statutes, is  
30 repealed.

31           Section 59. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Revises various provisions governing the funding of the judicial system within the state. Revises the procedures for attorneys who register to act as court-appointed counsel. Requires that the circuit Article V indigent services committee establish compensation rates for court-appointed counsel. Revises certain procedures for paying private court-appointed counsel. Clarifies various provisions governing filing fees. Revises procedures for determining and paying fees to witnesses and expert witnesses. Exempts the Justice Administrative Commission from application of the Administrative Procedure Act. Revises procedures for determining the amount and payment of costs when a defendant is surrendered or apprehended. Provides requirements and procedures for the remission of a forfeiture. Provides a procedure whereby an acquitted defendant may request a refund of certain fees. (See bill for details.)