

By the Committee on Judiciary; and Senators Smith and Fasano

590-2257-05

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

1 funds appropriated for use by the public
2 defenders; requiring the commission to track
3 and report data on the race, sex, and ethnicity
4 of private court-appointed counsel; amending s.
5 27.52, F.S., relating to the determination of
6 indigent status; providing for application to
7 the clerk of court for such a determination and
8 appointment of a public defender; prescribing
9 duties of the clerk and the public defender
10 relating to an application; prescribing
11 application requirements and review criteria;
12 providing for review by the court of a clerk's
13 determination; authorizing the court to
14 determine a person indigent for costs and
15 eligible for payment of due-process expenses;
16 requiring certain parents or legal guardians to
17 furnish legal services and costs; providing for
18 a reevaluation of indigent status and referral
19 to the state attorney upon evidence of
20 financial discrepancies or fraud; providing
21 criminal penalties for the provision of false
22 information; amending s. 27.5304, F.S.;
23 providing that court-appointed counsel use
24 uniform contract, procedures, and forms in
25 certain circumstances; authorizing the Justice
26 Administrative Commission to pay attorney's
27 fees without court approval under certain
28 conditions; requiring the attorney to provide
29 the commission with advance notice of a court
30 hearing on payment of fees and costs;
31 authorizing the commission to participate in

1 such hearings telephonically; eliminating a
2 requirement for the Article V Indigent Services
3 Advisory Board to make recommendations on
4 compensation of private court-appointed
5 counsel; providing that private court-appointed
6 counsel is entitled to compensation upon final
7 disposition of the case; providing exceptions;
8 specifying intervals other than final
9 disposition of a case at which private
10 court-appointed counsel may request payment;
11 clarifying a prohibition against allowing an
12 attorney who is not on the registry to appear;
13 limiting the reimbursement allowed for the
14 preparation of invoices; amending s. 27.54,
15 F.S.; requiring that the county or municipality
16 pay certain costs for due-process services;
17 prescribing assessment of fees to recover such
18 costs; amending s. 28.24, F.S.; requiring that
19 the clerk of the court provide copies to public
20 guardians, attorneys ad litem, and
21 court-appointed counsel paid by the state;
22 requiring clerks of the court to participate in
23 the Comprehensive Case Information System by a
24 certain date; designating the custodian of
25 official records; providing that official
26 records are county property; amending s.
27 28.2402, F.S.; prohibiting the circuit court
28 from charging a county or municipality more
29 than one filing fee for a single filing
30 containing multiple allegations; exempting
31 certain enforcement actions from the filing

1 fee; amending s. 28.241, F.S.; providing for
2 the clerk of the court to collect a service fee
3 for appeals from circuit court; amending s.
4 28.245, F.S.; requiring that the clerks of the
5 court remit collections to the Department of
6 Revenue within a specified period; amending s.
7 28.246, F.S.; conforming a reference; revising
8 provisions authorizing an individual to enter
9 into a payment plan for the payment of fees,
10 costs, or fines; providing for the court to
11 review the payment plan; amending s. 28.345,
12 F.S.; exempting certain court staff, public
13 guardians, attorneys ad litem, and
14 court-appointed counsel from the payment of
15 fees and charges assessed by the clerk of the
16 circuit court; amending s. 28.35, F.S.;
17 requiring the Florida Clerks of Court
18 Operations Committee to report on additional
19 budget funding authority provided to a clerk;
20 amending s. 28.36, F.S.; revising the date for
21 the county clerk to submit a proposed budget;
22 conforming a reference to the Florida Clerks of
23 Court Operations Corporation; conforming a
24 reference to the Chief Financial Officer;
25 conforming a cross-reference; providing for
26 identification of ineligible expenditures by
27 the clerks of court; requiring the clerks to
28 reimburse ineligible expenditures to the Clerks
29 of Court Trust Fund; authorizing the
30 corporation to approve additional annual
31 funding for a clerk under prescribed

1 conditions; requiring notice and documentation;
2 amending s. 28.37, F.S.; expanding the types of
3 excess funds that clerks of the court must
4 remit to the Department of Revenue over the
5 amount needed to meet approved budgets;
6 amending s. 29.004, F.S.; providing for state
7 appropriations to be used for expert witnesses
8 who are appointed by the court rather than
9 requested by any party; amending s. 29.007,
10 F.S.; providing for state funds to be used in
11 providing mental health professionals in
12 certain civil cases; clarifying the use of
13 state funds at the trial or appellate level to
14 pay certain costs on behalf of a litigant who
15 is indigent; amending s. 29.008, F.S.;
16 requiring that the county where the appellate
17 district is located fund the appellate division
18 of the public defender's office; expanding the
19 definition of the term "facility" to include
20 items necessary for court-reporting services;
21 narrowing a limitation on the application of
22 certain requirements to specified facilities;
23 including hearing rooms within those facilities
24 funded by the county as a court-related
25 function; including audio equipment within
26 county-funded communications services; creating
27 s. 29.0081, F.S.; authorizing counties and
28 judicial circuits to agree to the funding of
29 personnel positions for the circuit; providing
30 requirements for such agreements; providing for
31 the effect and limitation of such agreements;

1 amending s. 29.015, F.S.; authorizing the
2 Justice Administrative Commission to transfer
3 funds to address budget deficits relating to
4 due-process services; requiring notice of the
5 transfer; amending s. 29.018, F.S.; eliminating
6 the authority for court-appointed counsel to
7 contract to share in court and due-process
8 costs; providing that the Justice
9 Administrative Commission may contract for such
10 cost-sharing on behalf of court-appointed
11 counsel; creating s. 29.0185, F.S.; specifying
12 conditions under which state-funded due-process
13 services are provided; amending s. 34.045,
14 F.S.; prohibiting the county court from
15 charging a county or municipality more than one
16 filing fee for a single filing containing
17 multiple allegations; exempting certain
18 enforcement actions of local code violations
19 from the filing fee; expanding conditions under
20 which the county or municipality is the
21 prevailing party; requiring an assessment for a
22 filing fee; amending s. 34.191, F.S.; providing
23 that for certain purposes, a municipality does
24 not include certain unincorporated areas;
25 clarifying a requirement that certain fines and
26 forfeitures committed within an unincorporated
27 area of a municipality be paid to the clerk of
28 the county court; amending s. 39.0132, F.S.;
29 authorizing the Justice Administrative
30 Commission to inspect certain court dockets;
31 amending s. 39.821, F.S.; requiring that the

1 Guardian Ad Litem Program rather than the chief
2 judge request the federal criminal records
3 check for purposes of certifying guardians ad
4 litem; amending s. 39.822, F.S.; directing
5 agencies, persons, and other organizations to
6 provide a guardian ad litem access to certain
7 records related to the best interests of a
8 child; amending s. 40.29, F.S.; clarifying
9 procedures for the payments made by the state
10 to the clerk of the court for the costs of
11 witnesses; creating s. 40.355, F.S.; requiring
12 the clerk of the court to report on, and refund
13 to the state attorneys and public defenders,
14 certain moneys collected for payment of jurors
15 and due-process costs; amending s. 43.16, F.S.;
16 providing that the Justice Administrative
17 Commission is not subject to the Administrative
18 Procedure Act; amending s. 43.26, F.S.;
19 prescribing responsibilities of the chief judge
20 and the clerk of court relating to the
21 administration of justice and provision of
22 court-related functions; amending s. 44.102,
23 F.S.; revising conditions under which
24 nonvolunteer court mediators may be compensated
25 by the county or parties; amending s. 44.108,
26 F.S.; clarifying the fees charged for scheduled
27 mediation services provided by a circuit
28 court's mediation program; requiring the clerk
29 of the court to report to the chief judge the
30 amount of such fees collected; amending s.
31 57.081, F.S.; adding a cross-reference to

1 conform; creating s. 57.082, F.S., relating to
2 the determination of civil indigent status;
3 providing for application to the clerk of court
4 for such a determination; prescribing duties of
5 the clerk relating to an application;
6 prescribing application requirements and review
7 criteria; providing for an interim
8 determination by the court and appointment of
9 counsel; providing for review by the court of
10 the clerk's determination; providing for
11 enrollment in a payment plan by a person
12 determined indigent; providing for the waiver
13 of fees and costs under certain conditions;
14 providing for reevaluation of indigent status
15 and referral to the state attorney upon
16 evidence of financial discrepancies or fraud;
17 providing criminal penalties for providing
18 false information; amending s. 92.142, F.S.;
19 deleting a provision that provides for payment
20 of per diem and travel expenses for a witness
21 in a criminal case at the discretion of the
22 court; amending s. 92.231, F.S.; removing
23 references to the Article V Indigent Services
24 Advisory Board and the provision of
25 recommendations on expert witness fees;
26 amending s. 110.205, F.S.; providing that
27 officers and employees of the Justice
28 Administrative Commission and specified related
29 organizations are not career service positions;
30 amending s. 116.01, F.S.; providing procedures
31 for the clerk of the court to remit funds to

1 the Department of Revenue; amending s. 116.21,
2 F.S.; providing for the disposition of
3 unclaimed moneys collected in the course of
4 court-related activities by the clerk of the
5 court; requiring the clerk to pay certain
6 publication costs; amending s. 119.07, F.S.;
7 extending the time period during which certain
8 social security numbers and other data included
9 in court or official county records may be
10 available for public inspection unless
11 redaction is requested; extending the deadline
12 by which court clerks and county recorders must
13 keep such data confidential; amending s.
14 142.01, F.S.; clarifying those moneys to be
15 included within the fine and forfeiture fund of
16 the clerk of the circuit court; amending s.
17 213.13, F.S.; requiring that the funds remitted
18 by the clerk to the state be transmitted
19 electronically within a specified period;
20 amending s. 219.07, F.S.; clarifying the
21 distributions that the clerk is required to
22 make as part of his or her court-related
23 functions; amending s. 219.075, F.S.; exempting
24 funds collected by the clerk from the
25 requirements for the investment of surplus
26 funds of a county; amending s. 318.121, F.S.;
27 clarifying that certain court costs and
28 surcharges are added to civil traffic
29 penalties; amending s. 318.18, F.S.; requiring
30 that the clerk of the court report the amount
31 of certain surcharges collected to the chief

1 judge, the Governor, and the Legislature;
2 amending s. 318.21, F.S.; providing for the
3 disposition of traffic-infraction penalties for
4 violations occurring in unincorporated areas of
5 certain municipalities having a consolidated
6 government; amending s. 318.31, F.S.; deleting
7 provisions concerning the appointment of a
8 civil traffic infraction hearing officer;
9 amending s. 318.325, F.S.; deleting provisions
10 specifying the funding of such hearing officer;
11 amending s. 322.29, F.S.; increasing the fees
12 charged for reinstating a driver's license;
13 amending s. 372.72, F.S.; requiring that the
14 proceeds from unclaimed bonds be deposited into
15 the clerk's fine and forfeiture fund; amending
16 s. 903.26, F.S.; revising the procedure for
17 determining the amount of the costs incurred in
18 returning a defendant to the county of
19 jurisdiction; amending s. 903.28, F.S.;
20 revising certain notice requirements following
21 the surrender or apprehension of a defendant
22 for purposes of remission of a forfeiture;
23 authorizing the clerk of the circuit court to
24 enter into certain contracts for purposes of
25 representation in an action for the remission
26 of a forfeiture; providing that the clerk is
27 the real party in interest for all appeals
28 arising from such an action; amending s.
29 916.115, F.S.; providing requirements for the
30 payment of experts; specifying those fees which
31 are paid by the state, the office of the public

1 defender, the office of the state attorney, or
2 the Justice Administrative Commission; amending
3 s. 916.12, F.S.; revising the procedures under
4 which the court may take action following a
5 finding that the defendant is incompetent to
6 proceed; amending s. 916.301, F.S.; requiring
7 the court to pay for certain court-appointed
8 retardation and autism experts; amending s.
9 938.29, F.S.; providing for a judgment lien for
10 the payment of certain attorney's fees to be
11 filed without cost; amending s. 939.06, F.S.;
12 clarifying that an acquitted defendant is not
13 liable for certain fees; providing a procedure
14 for such a defendant to request a refund from
15 the Justice Administrative Commission of costs
16 or fees paid; amending s. 985.05, F.S.;
17 authorizing the Justice Administrative
18 Commission to have access to certain court
19 records; amending s. 985.201, F.S.; revising
20 the manner in which a court may retain
21 jurisdiction over a child and the child's
22 parent when the court has ordered restitution
23 for certain delinquent acts; requiring entry of
24 a restitution order; creating s. 92.152, F.S.;
25 requiring that the party calling a witness in
26 traffic court bear the costs; requiring that
27 the office of the state attorney pay such costs
28 if the witness is required to testify on behalf
29 of the prosecution; directing the trial court
30 administrator to recover expenditures for
31 state-funded services if those services were

1 furnished to a user possessing the ability to
2 pay; providing that the rate may not exceed the
3 cost of the service and recovery; repealing s.
4 29.005(4), F.S., relating to prosecution
5 expenses for appointing mental health
6 professionals; repealing s. 29.014, F.S.,
7 relating to the Article V Indigent Services
8 Advisory Board; repealing s. 318.37, F.S.,
9 relating to funding for a Civil Traffic
10 Infraction Hearing Officer Program; providing
11 effective dates.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (2), (3), (5), and (7) of
16 section 27.40, Florida Statutes, are amended to read:

17 27.40 Court-appointed counsel; circuit registries;
18 minimum requirements; appointment by court.--

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

24 (3) In utilizing a registry:

25 (a) Each circuit Article V indigent services committee
26 shall compile and maintain a list of attorneys in private
27 practice; ~~by county~~ by race, sex, and ethnicity of the
28 assigned attorneys; and by category of cases. To be included
29 on a registry, attorneys shall certify that they meet any
30 minimum requirements established in general law for court
31 appointment, are available to represent indigent defendants in

1 cases requiring court appointment of private counsel, and are
2 willing to abide by the terms of the contract for services. To
3 be included on a registry, an attorney also must enter into a
4 contract for services with the Justice Administrative
5 Commission. Failure to comply with the terms of the contract
6 for services may result in termination of the contract and
7 removal from the registry. Each attorney on the registry shall
8 be responsible for notifying the circuit Article V indigent
9 services committee and the Justice Administrative Commission
10 of any change in his or her status. Failure to comply with
11 this requirement shall be cause for termination of the
12 contract for services and removal from the registry until the
13 requirement is fulfilled.

14 (b) The court shall appoint attorneys in rotating
15 order in the order in which names appear on the applicable
16 registry, unless the court makes a finding of good cause on
17 the record for appointing an attorney out of order. An
18 attorney not appointed in the order in which his or her name
19 appears on the list shall remain next in order. The
20 appointment of an attorney who is part of a law firm that
21 includes other attorneys on the registry shall count as
22 selection of the firm for that particular rotation, and
23 another attorney on the registry from that same law firm may
24 not be appointed in the same rotation. An attorney who is
25 appointed may not share duties related to the appointment with
26 an attorney in his or her law firm unless the attorney sharing
27 in the duties is also on the registry.

28 (c) If it finds the number of attorneys on the
29 registry in a county or circuit for a particular category of
30 cases is inadequate, the circuit Article V indigent services
31 committee shall notify the chief judge of the particular

1 circuit in writing. The chief judge shall submit the names of
2 at least three private attorneys with relevant experience. The
3 clerk of court shall send an application to each of these
4 attorneys to register for appointment.

5 (d) Quarterly, ~~beginning no later than October 1,~~
6 ~~2004,~~ each circuit Article V indigent services committee shall
7 provide a current copy of each registry to the Chief Justice
8 of the Supreme Court, the chief judge, the state attorney and
9 public defender in each judicial circuit, and the clerk of
10 court in each county, the Justice Administrative Commission,
11 and the Indigent Services Advisory Board with a current copy
12 of each registry. The copy of a registry shall identify the
13 race, sex, and ethnicity of each attorney listed in the
14 registry.

15 (5) The Justice Administrative Commission shall
16 approve uniform contract forms for use in procuring the
17 services of private court-appointed counsel and uniform
18 procedures and forms for use by a court-appointed attorney in
19 support of billing for attorney's fees, costs, and related
20 expenses to demonstrate the attorney's completion of specified
21 duties.

22 (7)(a) An attorney appointed to represent a defendant
23 or other client is entitled to payment pursuant to s. 27.5304,
24 only upon full performance by the attorney of specified
25 duties; ~~approval of payment by the court,~~ except for payment
26 based on a flat fee per case as provided in s. 27.5304; and
27 attorney submission of a payment request to the Justice
28 Administrative Commission. Upon being permitted to withdraw
29 from a case, a court-appointed attorney shall submit a copy of
30 the order to the Justice Administrative Commission at the time
31 it is issued by the court. If an attorney is permitted to

1 withdraw or is otherwise removed from representation prior to
2 full performance of the duties specified in this section for
3 reasons other than breach of duty, the trial court shall
4 approve payment of attorney's fees and costs for work
5 performed in an amount not to exceed the amounts specified in
6 s. 27.5304. Withdrawal from a case prior to full performance
7 of the duties specified shall create a rebuttable presumption
8 that the attorney is not entitled to the entire flat fee for
9 those cases paid on a flat-fee-per-case basis.

10 (b) The attorney shall maintain appropriate
11 documentation, including a current and detailed hourly
12 accounting of time spent representing the defendant or other
13 client. These records and documents are subject to review by
14 the Justice Administrative Commission.

15 Section 2. Section 27.42, Florida Statutes, is amended
16 to read:

17 27.42 Circuit Article V indigent services committees;
18 composition; staff; responsibilities; funding.--

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

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

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

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

30 (d) One experienced civil trial attorney appointed by
31 the chief judge, to serve a 2-year term. During the 2-year

1 term, the attorney is prohibited from serving as
2 court-appointed counsel.

3 (2)(a) The responsibility of the circuit Article V
4 indigent services committee is to manage the appointment and
5 compensation of court-appointed counsel within a circuit
6 pursuant to ss. 27.40 and 27.5303. The committee shall also
7 set the compensation rates of due-process service providers in
8 cases where the court has appointed counsel or declared a
9 person indigent for costs, not to exceed any rates specified
10 in the General Appropriations Act such that the total amount
11 expended does not exceed the amount budgeted in the General
12 Appropriations Act for the particular due-process service. The
13 circuit Article V indigent services committee shall meet at
14 least quarterly.

15 (b) ~~No later than October 1, 2004,~~ Each circuit
16 Article V indigent services committee shall maintain a
17 registry pursuant to s. 27.40, even when procuring counsel
18 through a competitive bidding process. However, if counsel is
19 procured through a competitive bidding process, the registry
20 shall be used only when counsel obtained through that process
21 is unable to provide representation due to a conflict of
22 interest or reasons beyond their control. The committee shall
23 apply any eligibility and performance standards set by the
24 Legislature.

25 (c) Each circuit Article V indigent services committee
26 shall develop a schedule of standard fees and expense
27 allowances for the categories of cases specified in s. 27.5304
28 ~~s. 27.5303~~, consistent with the overall compensation rates in
29 that section and within the amount of appropriated funds
30 allocated by the Justice Administrative Commission to the
31 circuit for this purpose.

1 (d) Each circuit Article V indigent services committee
2 shall establish a schedule of standard allowances for
3 due-process expenses for cases in which the court has declared
4 a person indigent for costs, within the amount of appropriated
5 funds allocated by the Justice Administrative Commission to
6 the circuit for this purpose.

7 (3) Notwithstanding any provision of this section to
8 the contrary, a circuit Article V indigent services committee
9 may approve, and the Justice Administrative Commission shall
10 expend funds for, alternate models for the provision of
11 criminal and civil due-process services and representation
12 other than a model based on a per-case fee if a more
13 cost-effective and efficient system can be provided. An
14 alternate model may include court-reporting services and the
15 provision of court-appointed counsel.

16 ~~(4)(3)~~ The Justice Administrative Commission shall
17 prepare and issue on a quarterly basis a statewide report
18 comparing actual year-to-date expenditures to budgeted amounts
19 for the circuit Article V indigent services committees in each
20 of the judicial circuits. Copies of these quarterly reports
21 shall be distributed to each circuit Article V indigent
22 services committee and to the Governor, the Chief Justice of
23 the Supreme Court, the President of the Senate, and the
24 Speaker of the House of Representatives.

25 ~~(5)(4)(a)~~ The funding and positions for the processing
26 of committees' fees and expenses shall be as appropriated to
27 the Justice Administrative Commission in the General
28 Appropriations Act.

29 (b) Funds for criminal conflict attorney's fees and
30 expenses shall be appropriated by the Legislature in a
31 separate appropriations category within the Justice

1 Administrative Commission. These funds shall be allocated to
2 each circuit as prescribed in the General Appropriations Act.

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

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

10 (e) Funds for due-process expenses in cases in which
11 the court has declared a person indigent for costs shall be
12 appropriated by the Legislature in a separate appropriations
13 category within the Justice Administrative Commission. These
14 expenses may not be paid from funds appropriated for use by
15 the public defenders.

16
17 The Justice Administrative Commission shall separately track
18 expenditures on private court-appointed counsel for the
19 following categories of cases: criminal conflict, civil
20 conflict, dependency and termination of parental rights, and
21 guardianship. The commission shall also track the race, sex,
22 and ethnicity of private court-appointed counsel for each
23 circuit and include this data in the quarterly report required
24 under subsection (4).

25 Section 3. Section 27.52, Florida Statutes, is amended
26 to read:

27 (Substantial rewording of section. See s.
28 27.52, F.S., for present text.)

29 27.52 Determination of indigent status.--

30 (1) APPLICATION TO THE CLERK.--A person seeking
31 appointment of a public defender under s. 27.51 based upon an

1 inability to pay must apply to the clerk of the court for a
2 determination of indigent status using an application form
3 developed by the Florida Clerks of Court Operations
4 Corporation and submitted to the Supreme Court for approval.

5 (a) The application must include, at a minimum, the
6 following financial information:

7 1. Net income, consisting of total salary and wages,
8 minus deductions required by law, including court-ordered
9 support payments.

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

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

19 4. All liabilities and debts.

20 5. If applicable, the amount of any bail paid for the
21 applicant's release from incarceration and the source of the
22 funds.

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) An applicant shall pay a \$40 application fee to
31 the clerk for each application filed. The applicant shall pay

1 the fee within 7 days after submitting the application. If the
2 applicant does not pay the fee prior to the disposition of the
3 case, the clerk shall notify the court, and the court shall:

4 1. Assess the application fee as part of the sentence
5 or as a condition of probation; or

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

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

13 (d) All application fees collected by the clerk under
14 this section shall be transferred monthly by the clerk to the
15 Department of Revenue for deposit in the Indigent Criminal
16 Defense Trust Fund administered by the Justice Administrative
17 Commission, to be used to supplement the general revenue funds
18 appropriated by the Legislature to the public defenders. The
19 clerk may retain 2 percent of application fees collected
20 monthly for administrative costs prior to remitting the
21 remainder to the Department of Revenue.

22 (e)1. The clerk shall assist a person who appears
23 before the clerk and requests assistance in completing the
24 application, and the clerk shall notify the court if a person
25 is unable to complete the application after the clerk has
26 provided assistance.

27 2. If the person seeking appointment of a public
28 defender is incarcerated, the public defender is responsible
29 for providing the application to the person and assisting him
30 or her in its completion and is responsible for submitting the
31 application to the clerk on the person's behalf. The public

1 defender may enter into an agreement for jail employees,
2 pretrial services employees, or employees of other criminal
3 justice agencies to assist the public defender in performing
4 functions assigned to the public defender under this
5 subparagraph.

6 (2) DETERMINATION BY THE CLERK.--The clerk of the
7 court shall determine whether an applicant seeking appointment
8 of a public defender is indigent based upon the information
9 provided in the application and the criteria prescribed in
10 this subsection.

11 (a)1. An applicant, including an applicant who is a
12 minor or an adult tax-dependent person, is indigent if the
13 applicant's income is equal to or below 200 percent of the
14 then-current federal poverty guidelines prescribed for the
15 size of the household of the applicant by the United States
16 Department of Health and Human Services or if the person is
17 receiving Temporary Assistance for Needy Families-Cash
18 Assistance, poverty-related veterans' benefits, or
19 Supplemental Security Income (SSI).

20 2. There is a presumption that the applicant is not
21 indigent if the applicant owns, has equity in, or has the
22 expectancy of any interest in any intangible or tangible
23 personal property or real property having a net equity value
24 of \$2,500 or more, excluding the value of the person's
25 homestead and one vehicle having a net value not exceeding
26 \$5,000.

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

29 1. The applicant is not indigent.

30 2. The applicant is indigent.

31

1 (c)1. If the clerk determines that the applicant is
2 indigent, the clerk shall submit the determination to the
3 office of the public defender and immediately file the
4 determination in the case file.

5 2. If the public defender is unable to provide
6 representation due to a conflict under s. 27.5303, the public
7 defender shall motion the court for withdrawal from
8 representation and appointment of private counsel.

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

18 (e) The applicant may seek review of the clerk's
19 determination that the applicant is not indigent in the court
20 having jurisdiction over the matter at the next scheduled
21 hearing. If the applicant seeks review of the clerk's
22 determination of indigent status, the court shall make a final
23 determination as provided in subsection (4).

24 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the
25 clerk of the court has not made a determination of indigent
26 status at the time a person requests appointment of a public
27 defender, the court shall make a preliminary determination of
28 indigent status, pending further review by the clerk, and may,
29 by court order, appoint a public defender or private counsel
30 on an interim basis.

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

1 (a) If the clerk of the court determines that the
2 applicant is not indigent, and the applicant seeks review of
3 the clerk's determination, the court shall make a final
4 determination of indigent status by reviewing the information
5 provided in the application against the criteria prescribed in
6 subsection (2) and by considering the following additional
7 factors:

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

10 2. Whether a bond has been posted, the type of bond,
11 and who paid the bond.

12 3. Whether paying for private counsel or other due
13 process services creates a substantial hardship for the
14 applicant or the applicant's family.

15 4. Any other relevant financial circumstances of the
16 applicant or the applicant's family.

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

20 1. The applicant is not indigent.

21 2. The applicant is indigent.

22 (5) INDIGENT FOR COSTS.--A person who is eligible to
23 be represented by a public defender under s. 27.51 but who is
24 represented by private counsel not appointed by the court for
25 a reasonable fee, as approved by the court, or on a pro bono
26 basis, or who is proceeding pro se, may motion the court for a
27 determination that he or she is indigent for costs and
28 eligible for the provision of due-process services, as
29 prescribed by s. 29.006 and s. 29.007, funded by the state.

30 (a) The person must submit to the court:
31

1 1. The completed application prescribed in subsection
2 (1); and
3 2. In the case of a person represented by counsel, an
4 affidavit attesting to the estimated amount of attorney's fees
5 and the source of payment for these fees.
6 (b) In reviewing the motion, the court shall consider:
7 1. Whether the applicant applied for a determination
8 of indigent status under subsection (1) and the outcome of
9 such application;
10 2. The extent to which the person's income equals or
11 exceeds the income criteria prescribed in subsection (2);
12 3. The additional factors prescribed in subsection
13 (4);
14 4. Whether the applicant is proceeding pro se or is
15 represented by a private attorney for a fee or on a pro bono
16 basis;
17 5. When the applicant retained private counsel; and
18 6. The amount of any attorney's fees and who is paying
19 the fees.
20 (c) Based upon its review, the court shall make one of
21 the following determinations:
22 1. The applicant is not indigent for costs.
23 2. The applicant is indigent for costs.
24 (d) The provision of due-process services based upon a
25 determination that a person is indigent for costs under this
26 subsection must be effectuated pursuant to a court order, a
27 copy of which the clerk shall provide to counsel representing
28 the person, or to the person directly if he or she is
29 proceeding pro se, for use in requesting payment of
30 due-process expenses through the Justice Administrative
31 Commission. Counsel representing a person declared indigent

1 for costs must execute the Justice Administrative Commission's
2 contract for counsel representing persons indigent for costs.

3 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
4 parent or legal guardian of an applicant who is a minor or an
5 adult tax-dependent person shall furnish the minor or adult
6 tax-dependent person with the necessary legal services and
7 costs incident to a delinquency proceeding or, upon transfer
8 of such person for criminal prosecution as an adult pursuant
9 to chapter 985, a criminal prosecution in which the person has
10 a right to legal counsel under the Constitution of the United
11 States or the Constitution of the State of Florida. The
12 failure of a parent or legal guardian to furnish legal
13 services and costs under this section does not bar the
14 appointment of legal counsel pursuant to this section, s.
15 27.40, or s. 27.5303. When the public defender, a private
16 court-appointed conflict counsel, or a private attorney is
17 appointed to represent a minor or an adult tax-dependent
18 person in any proceeding in circuit court or in a criminal
19 proceeding in any other court, the parents or the legal
20 guardian shall be liable for payment of the fees, charges, and
21 costs of the representation even if the person is a minor
22 being tried as an adult. Liability for the fees, charges, and
23 costs of the representation shall be imposed in the form of a
24 lien against the property of the nonindigent parents or legal
25 guardian of the minor or adult tax-dependent person. The lien
26 is enforceable as provided in s. 27.561 or s. 938.29.

27 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE
28 INFORMATION.--

29 (a) If the court learns of discrepancies between the
30 application or motion and the actual financial status of the
31 person found to be indigent or indigent for costs, the court

1 shall determine whether the public defender or private
2 attorney shall continue representation or whether the
3 authorization for any other due-process services previously
4 authorized shall be revoked. The person may be heard regarding
5 the information learned by the court. If the court, based on
6 the information, determines that the person is not indigent or
7 indigent for costs, the court shall order the public defender
8 or private attorney to discontinue representation and revoke
9 the provision of any other authorized due-process services.

10 (b) If the court has reason to believe that any
11 applicant, through fraud or misrepresentation, was improperly
12 determined to be indigent or indigent for costs, the matter
13 shall be referred to the state attorney. Twenty-five percent
14 of any amount recovered by the state attorney as reasonable
15 value of the services rendered, including fees, charges, and
16 costs paid by the state on the person's behalf, shall be
17 remitted to the Department of Revenue for deposit into the
18 Grants and Donations Trust Fund within the Justice
19 Administrative Commission for appropriation by the Legislature
20 to the state attorney. Seventy-five percent of any amount
21 recovered shall be remitted to the Department of Revenue for
22 deposit into the General Revenue Fund.

23 (c) A person who knowingly provides false information
24 to the clerk or the court in seeking a determination of
25 indigent status under this section commits a misdemeanor of
26 the first degree, punishable as provided in s. 775.082 or s.
27 775.083.

28 Section 4. Subsections (1), (2), (4), and (6) of
29 section 27.5304, Florida Statutes, are amended, and
30 subsections (7), (8), and (9) are added to that section, to
31 read:

1 27.5304 Private court-appointed counsel;
2 compensation.--

3 (1) Private court-appointed counsel shall be
4 compensated by the Justice Administrative Commission in an
5 amount not to exceed the fee limits established in this
6 section. The attorney also shall be reimbursed for reasonable
7 and necessary expenses in accordance with s. 29.007. If the
8 attorney is representing a defendant charged with more than
9 one offense in the same case, the attorney shall be
10 compensated at the rate provided for the most serious offense
11 for which he or she represented the defendant. This section
12 does not allow stacking of the fee limits established by this
13 section. Court-appointed counsel providing representation
14 under an alternate model shall enter into the uniform contract
15 with the Justice Administrative Commission and shall use the
16 Justice Administrative Commission's uniform procedures and
17 forms in support of billing for attorney's fees, costs, and
18 related expenses. Failure to comply with the terms of the
19 contract for services may result in termination of the
20 contract.

21 (2) The Justice Administrative Commission shall review
22 an intended billing by private court-appointed counsel for
23 attorney's fees based on a flat fee per case for completeness
24 and compliance with contractual, statutory, and circuit
25 Article V indigent services committee requirements. The
26 commission may approve the intended billing for flat fee
27 payment without approval by the court if the intended billing
28 is correct. For all other intended billings, prior to filing a
29 motion for an order approving payment of attorney's fees,
30 costs, or related expenses, the private court-appointed
31 counsel shall deliver a copy of the intended billing, together

1 | with supporting affidavits and all other necessary
2 | documentation, to the Justice Administrative Commission. The
3 | Justice Administrative Commission shall review the billings,
4 | affidavit, and documentation for completeness and compliance
5 | with contractual and statutory requirements. If the Justice
6 | Administrative Commission objects to any portion of the
7 | proposed billing, the objection and reasons therefor shall be
8 | communicated to the private court-appointed counsel. The
9 | private court-appointed counsel may thereafter file his or her
10 | motion for order approving payment of attorney's fees, costs,
11 | or related expenses together with supporting affidavits and
12 | all other necessary documentation. The motion must specify
13 | whether the Justice Administrative Commission objects to any
14 | portion of the billing or the sufficiency of documentation
15 | and, if so, the counsel must attach to the motion the letter
16 | from the commission stating its objections ~~the reasons~~
17 | ~~therefor~~. A copy of the motion and attachments shall be served
18 | on the Justice Administrative Commission at least 5 business
19 | days prior to the date of a hearing. The Justice
20 | Administrative Commission shall have standing to appear before
21 | the court to contest any motion for order approving payment of
22 | attorney's fees, costs, or related expenses and may, unless
23 | otherwise ordered by the court, participate in a hearing on
24 | the motion by use of telephonic or other communication
25 | equipment. The Justice Administrative Commission may contract
26 | with other public or private entities or individuals to appear
27 | before the court for the purpose of contesting any motion for
28 | order approving payment of attorney's fees, costs, or related
29 | expenses. The fact that the Justice Administrative Commission
30 | has not objected to any portion of the billing or to the
31 | sufficiency of the documentation is not binding on the court.

1 The court retains primary authority and responsibility for
2 determining the reasonableness of all billings for attorney's
3 fees, costs, and related expenses, subject to statutory
4 limitations. Private court-appointed counsel is entitled to
5 compensation upon final disposition of a case, except as
6 provided in subsections (7) and (8). Before final disposition
7 of a case, a private court-appointed counsel may file a motion
8 for fees, costs, and related expenses for services completed
9 up to the date of the motion in any case or matter in which
10 legal services have been provided by the attorney for more
11 than 1 year. The amount approved by the court may not exceed
12 80 percent of the fees earned, or costs and related expenses
13 incurred, to date, or an amount proportionate to the maximum
14 fees permitted under this section based on legal services
15 provided to date, whichever is less. The court may grant the
16 motion if counsel shows that failure to grant the motion would
17 work a particular hardship upon counsel.

18 (4) By January 1 of each year, the Article V Indigent
19 Services Advisory Board shall recommend to the Legislature any
20 adjustments to the compensation provisions of this section.
21 This subsection expires on July 1, 2006.

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

28 (7) Private court-appointed counsel representing a
29 parent in a dependency case that is open may submit a request
30 for payment to the Justice Administrative Commission at the
31 following intervals:

- 1 1. Upon entry of an order of disposition as to the
2 parent being represented;
3 2. Upon conclusion of a 12-month permanency review;
4 and
5 3. Following a judicial review hearing.
6

7 In no case, however, may counsel submit requests under this
8 subsection more than once per quarter, unless the court finds
9 extraordinary circumstances justifying more frequent
10 submission of payment requests.

11 (8) Private court-appointed counsel representing an
12 individual in an appeal to a district court of appeal or the
13 Supreme Court may submit a request for payment to the Justice
14 Administrative Commission at the following intervals:

- 15 1. Upon the filing of an appellate brief, including,
16 but not limited to, a reply brief; and
17 2. When the opinion of the appellate court is
18 finalized.

19 (9) Private court-appointed counsel may bill for no
20 more than one half-hour for preparation of each invoice for
21 attorney's fees in a case paid on the basis of an hourly rate,
22 unless the court has approved the attorney to bill more time
23 for preparation of the invoice. Private court-appointed
24 counsel may not bill for preparation of invoices for cases
25 paid on the basis of a flat fee.

26 Section 5. Subsection (2) of section 27.54, Florida
27 Statutes, is amended to read:

28 27.54 Limitation on payment of expenditures for public
29 defender's office other than by the state.--

30 (2) A county or municipality may contract with, or
31 appropriate or contribute funds to, the operation of the

1 offices of the various public defenders as provided in this
2 subsection. A public defender defending violations of special
3 laws or county or municipal ordinances punishable by
4 incarceration and not ancillary to a state charge shall
5 contract with counties and municipalities to recover the full
6 cost of services rendered on an hourly basis or reimburse the
7 state for the full cost of assigning one or more full-time
8 equivalent attorney positions to work on behalf of the county
9 or municipality. Notwithstanding any other provision of law,
10 in the case of a county with a population of less than 75,000,
11 the public defender shall contract for full reimbursement, or
12 for reimbursement as the parties otherwise agree. In cases of
13 violations of special laws or local ordinances, the county or
14 municipality shall pay for due process services that are
15 approved by the court, including deposition costs, deposition
16 transcript costs, investigative costs, witness fees, expert
17 witness costs, and interpreter costs. The person charged with
18 the violation shall be assessed a fee for the services of a
19 public defender and other costs and fees paid by the county or
20 municipality, which assessed fee may be reduced to a lien, in
21 all instances where the person enters a plea or is found to be
22 in violation or guilty of any count or lesser included offense
23 of the charge or companion case charges, regardless of
24 adjudication. The court shall determine the amount of the
25 obligation. The county or municipality may recover assessed
26 fees through collections court or as otherwise permitted by
27 law, and any fees recovered under this section shall be
28 forwarded to the applicable county or municipality as
29 reimbursement.

30 (a) A contract for reimbursement on an hourly basis
31 shall require a county or municipality to reimburse the public

1 defender for services rendered at a rate of \$50 per hour. If
2 an hourly rate is specified in the General Appropriations Act,
3 that rate shall control.

4 (b) A contract for assigning one or more full-time
5 equivalent attorney positions to perform work on behalf of the
6 county or municipality shall assign one or more full-time
7 equivalent positions based on estimates by the public defender
8 of the number of hours required to handle the projected
9 workload. The full cost of each full-time equivalent attorney
10 position on an annual basis shall be \$50, or the amount
11 specified in the General Appropriations Act, multiplied by the
12 legislative budget request standard for available work hours
13 for one full-time equivalent attorney position, or, in the
14 absence of that standard, 1,854 hours. The contract may
15 provide for funding full-time equivalent positions in
16 one-quarter increments.

17 (c) Any payments received under ~~pursuant to~~ this
18 subsection shall be deposited into the Grants and Donations
19 Trust Fund within the Justice Administrative Commission for
20 appropriation by the Legislature.

21 Section 6. Section 28.24, Florida Statutes, is amended
22 to read:

23 28.24 Service charges by clerk of the circuit
24 court.--The clerk of the circuit court shall ~~may~~ charge for
25 services rendered by the clerk's office in recording documents
26 and instruments and in performing the duties enumerated in
27 amounts not to exceed those specified in this section.
28 Notwithstanding any other provision of this section, the clerk
29 of the circuit court shall provide without charge to the state
30 attorney, public defender, ~~and~~ guardian ad litem, public
31 guardian, attorney ad litem, and court-appointed counsel paid

1 by the state, and to the authorized staff acting on behalf of
2 each, access to and a copy of any public record, if the
3 requesting party is entitled by law to view the exempt or
4 confidential record, as maintained by and in the custody of
5 the clerk of the circuit court as provided in general law and
6 the Florida Rules of Judicial Administration. The clerk of the
7 circuit court may provide the requested public record in an
8 electronic format in lieu of a paper format when capable of
9 being accessed by the requesting entity.

10
11 Charges

12
13 (1) For examining, comparing, correcting, verifying,
14 and certifying transcripts of record in appellate proceedings,
15 prepared by attorney for appellant or someone else other than
16 clerk per page.....4.50

17 (2) For preparing, numbering, and indexing an original
18 record of appellate proceedings, per instrument.....3.00

19 (3) For certifying copies of any instrument in the
20 public records.....1.50

21 (4) For verifying any instrument presented for
22 certification prepared by someone other than clerk, per page
233.00

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

27 (b) For making copies by photographic process of any
28 instrument in the public records of more than 14 inches by 8
29 1/2 inches, per page.....5.00

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

31 (a) 16 mm 100' microfilm roll.....37.50

1	(b) 35 mm 100' microfilm roll.....	52.50
2	(c) Microfiche, per fiche.....	3.00
3	(7) For copying any instrument in the public records	
4	by other than photographic process, per page.....	6.00
5	(8) For writing any paper other than herein	
6	specifically mentioned, same as for copying, including signing	
7	and sealing.....	6.00
8	(9) For indexing each entry not recorded.....	1.00
9	(10) For receiving money into the registry of court:	
10	(a)1. First \$500, percent.....	3
11	2. Each subsequent \$100, percent.....	1.5
12	(b) Eminent domain actions, per deposit.....	\$150.00
13	(11) For examining, certifying, and recording plats	
14	and for recording condominium exhibits larger than 14 inches	
15	by 8 1/2 inches:	
16	(a) First page.....	30.00
17	(b) Each additional page.....	15.00
18	(12) For recording, indexing, and filing any	
19	instrument not more than 14 inches by 8 1/2 inches, including	
20	required notice to property appraiser where applicable:	
21	(a) First page or fraction thereof.....	5.00
22	(b) Each additional page or fraction thereof.....	4.00
23	(c) For indexing instruments recorded in the official	
24	records which contain more than four names, per additional	
25	name.....	1.00
26	(d) An additional service charge shall be paid to the	
27	clerk of the circuit court to be deposited in the Public	
28	Records Modernization Trust Fund for each instrument listed in	
29	s. 28.222, except judgments received from the courts and	
30	notices of lis pendens, recorded in the official records:	
31	1. First page.....	1.00

1 2. Each additional page.....0.50
2
3 Said fund shall be held in trust by the clerk and used
4 exclusively for equipment and maintenance of equipment,
5 personnel training, and technical assistance in modernizing
6 the public records system of the office. In a county where the
7 duty of maintaining official records exists in an office other
8 than the office of the clerk of the circuit court, the clerk
9 of the circuit court is entitled to 25 percent of the moneys
10 deposited into the trust fund for equipment, maintenance of
11 equipment, training, and technical assistance in modernizing
12 the system for storing records in the office of the clerk of
13 the circuit court. The fund may not be used for the payment of
14 travel expenses, membership dues, bank charges,
15 staff-recruitment costs, salaries or benefits of employees,
16 construction costs, general operating expenses, or other costs
17 not directly related to obtaining and maintaining equipment
18 for public records systems or for the purchase of furniture or
19 office supplies and equipment not related to the storage of
20 records. On or before December 1, 1995, and on or before
21 December 1 of each year immediately preceding each year during
22 which the trust fund is scheduled for legislative review under
23 s. 19(f)(2), Art. III of the State Constitution, each clerk of
24 the circuit court shall file a report on the Public Records
25 Modernization Trust Fund with the President of the Senate and
26 the Speaker of the House of Representatives. The report must
27 itemize each expenditure made from the trust fund since the
28 last report was filed; each obligation payable from the trust
29 fund on that date; and the percentage of funds expended for
30 each of the following: equipment, maintenance of equipment,
31 personnel training, and technical assistance. The report must

1 indicate the nature of the system each clerk uses to store,
2 maintain, and retrieve public records and the degree to which
3 the system has been upgraded since the creation of the trust
4 fund.

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

10 1. If the counties maintain legal responsibility for
11 the costs of the court-related technology needs as defined in
12 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to
13 the Florida Association of Court Clerks and Comptroller, Inc.,
14 for the cost of development, implementation, operation, and
15 maintenance of the clerks' Comprehensive Case Information
16 System, in which system all clerks shall participate on or
17 before January 1, 2006; \$1.90 shall be retained by the clerk
18 to be deposited in the Public Records Modernization Trust Fund
19 and used exclusively for funding court-related technology
20 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);
21 and \$2 shall be distributed to the board of county
22 commissioners to be used exclusively to fund court-related
23 technology, and court technology needs as defined in s.
24 29.008(1)(f)2. and (h) for the state trial courts, state
25 attorney, and public defender in that county. If the counties
26 maintain legal responsibility for the costs of the
27 court-related technology needs as defined in s. 29.008(1)(f)2.
28 and (h), notwithstanding any other provision of law, the
29 county is not required to provide additional funding beyond
30 that provided herein for the court-related technology needs of
31 the clerk as defined in s. 29.008(1)(f)2. and (h). All court

1 | records ~~and official records~~ are the property of the State of
2 | Florida, including any records generated as part of the
3 | Comprehensive Case Information System funded pursuant to this
4 | paragraph and the clerk of court is designated as the
5 | custodian of such records. All official records, as defined in
6 | s. 28.001, are the property of the county, and the clerk, or
7 | the county office other than the clerk who has the duty of
8 | maintaining official records, is designated the custodian of
9 | the official records. The clerk of court or any entity acting
10 | on behalf of the clerk of court, including an association,
11 | shall not charge a fee to any agency as defined in s. 119.011,
12 | the Legislature, or the State Court System for copies of
13 | records generated by the Comprehensive Case Information System
14 | or held by the clerk of court or any entity acting on behalf
15 | of the clerk of court, including an association.

16 | 2. If the state becomes legally responsible for the
17 | costs of court-related technology needs as defined in s.
18 | 29.008(1)(f)2. and (h), whether by operation of general law or
19 | by court order, \$4 shall be remitted to the Department of
20 | Revenue for deposit into the General Revenue Fund.

21 | (13) Oath, administering, attesting, and sealing, not
22 | otherwise provided for herein.....3.00

23 | (14) For validating certificates, any authorized
24 | bonds, each.....3.00

25 | (15) For preparing affidavit of domicile.....5.00

26 | (16) For exemplified certificates, including signing
27 | and sealing.....6.00

28 | (17) For authenticated certificates, including signing
29 | and sealing.....6.00

30 |
31 |

1	(18)(a) For issuing and filing a subpoena for a	
2	witness, not otherwise provided for herein (includes writing,	
3	preparing, signing, and sealing).....	6.00
4	(b) For signing and sealing only.....	1.50
5	(19) For approving bond.....	7.50
6	(20) For searching of records, for each year's search	
7	1.50
8	(21) For processing an application for a tax deed sale	
9	(includes application, sale, issuance, and preparation of tax	
10	deed, and disbursement of proceeds of sale), other than excess	
11	proceeds.....	60.00
12	(22) For disbursement of excess proceeds of tax deed	
13	sale, first \$100 or fraction thereof.....	10.00
14	(23) Upon receipt of an application for a marriage	
15	license, for preparing and administering of oath; issuing,	
16	sealing, and recording of the marriage license; and providing	
17	a certified copy.....	30.00
18	(24) For solemnizing matrimony.....	30.00
19	(25) For sealing any court file or expungement of any	
20	record.....	37.50
21	(26)(a) For receiving and disbursing all restitution	
22	payments, per payment.....	3.00
23	(b) For receiving and disbursing all partial payments,	
24	other than restitution payments, for which an administrative	
25	processing service charge is not imposed pursuant to s.	
26	28.246, per month.....	5.00
27	(c) For setting up a payment plan, a one-time	
28	administrative processing charge in lieu of a per month charge	
29	under paragraph (b).....	25.00
30	(27) Postal charges incurred by the clerk of the	
31	circuit court in any mailing by certified or registered mail	

1 shall be paid by the party at whose instance the mailing is
2 made.

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

6 Section 7. Paragraph (a) of subsection (1) of section
7 28.2402, Florida Statutes, is amended to read:

8 28.2402 Cost recovery; use of the circuit court for
9 ordinance or special law violations.--

10 (1)(a) In lieu of payment of a filing fee under s.
11 28.241, a filing fee of \$10 shall be paid by a county or
12 municipality when filing a county or municipal ordinance
13 violation or violation of a special law in circuit court. This
14 fee shall be paid to the clerk of the court for performing
15 court-related functions. A county or municipality is not
16 required to pay more than one filing fee for a single filing
17 against a single defendant which contains multiple alleged
18 violations. A filing fee, other than that imposed under this
19 section, may not be assessed for initiating an enforcement
20 proceeding in circuit court for a violation of a county or
21 municipal code or ordinance or a violation of a special law.
22 The filing fee does not apply to instances in which a county
23 or a municipality has contracted with the state, or has been
24 delegated by the state, responsibility for enforcing state
25 operations, policies, or requirements under s. 125.69, s.
26 166.0415, or chapter 162.

27 Section 8. Subsection (2) of section 28.241, Florida
28 Statutes, is amended to read:

29 28.241 Filing fees for trial and appellate
30 proceedings.--
31

1 (2)(a) Upon the institution of any appellate
2 proceeding from any lower court to the circuit court of any
3 such county, including appeals filed by a county or
4 municipality as provided in s. 34.041(5), ~~or from the circuit~~
5 ~~court to an appellate court of the state,~~ the clerk shall
6 charge and collect from the party or parties instituting such
7 appellate proceeding ~~proceedings~~ a filing fee not to exceed
8 \$250 for filing a notice of appeal from the county court to
9 the circuit court. The clerk shall remit the first \$50 to the
10 Department of Revenue for deposit into the General Revenue
11 Fund. One-third of the fee collected by the clerk in excess of
12 \$50 also shall be remitted to the Department of Revenue for
13 deposit into the Clerks of the Court Trust Fund. and,

14 (b) In addition to the filing fee required under s.
15 25.241 or s. 35.22, the clerk shall collect and retain from
16 the party or parties instituting an appellate proceeding a
17 service charge of \$75~~\$50~~ for filing a notice of appeal from
18 the circuit court to the district court of appeal or to the
19 Supreme Court.

20
21 If the party is determined to be indigent, the clerk shall
22 defer payment of the fee and service charge under this
23 subsection. 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.~~

28 Section 9. Section 28.245, Florida Statutes, is
29 amended to read:

30 28.245 Transmittal of funds to Department of Revenue;
31 uniform remittance form required.--Notwithstanding any other

1 provision of law, all moneys collected by the clerks of the
2 court as part of the clerk's court-related functions for
3 subsequent distribution to any state entity must be
4 transmitted electronically, by the 20th day of the month
5 immediately following the month in which the moneys are
6 collected, to the Department of Revenue for appropriate
7 distribution. A uniform remittance form provided by the
8 Department of Revenue detailing the specific amounts due each
9 fund must accompany such submittal. All moneys collected by
10 the clerks of court for remittance to any entity must be
11 distributed pursuant to the law in effect at the time of
12 collection.

13 Section 10. Subsections (1) and (4) of section 28.246,
14 Florida Statutes, are amended to read:

15 28.246 Payment of court-related fees, charges, and
16 costs; partial payments; distribution of funds.--

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

22 (a) The total amount of mandatory fees, service
23 charges, and costs; the total amount actually assessed; the
24 total amount discharged, waived, or otherwise not assessed;
25 and the total amount collected.

26 (b) The amount of discretionary fees, service charges,
27 and costs assessed; the total amount discharged; and the total
28 amount collected.

29 (c) The total amount of mandatory fines and other
30 monetary penalties; the total amount assessed; the total
31

1 amount discharged, waived, or otherwise not assessed; and the
2 total amount collected.

3 (d) The amount of discretionary fines and other
4 monetary penalties assessed; the amount discharged; and the
5 total amount collected.

6
7 If provided to the clerk of court by the judge, the clerk, in
8 reporting the amount assessed, shall separately identify the
9 amount assessed pursuant to s. 938.30 as community service;
10 assessed by reducing the amount to a judgment or lien;
11 satisfied by time served; or other. The form developed by the
12 Chief Financial Officer shall include separate entries for
13 recording these amounts. The clerk shall submit the report on
14 a quarterly basis 30 days after the end of the quarter for the
15 period from July 1, 2003, through June 30, 2004, and on an
16 annual basis thereafter, 60 days after the end of the county
17 fiscal year.

18 (4) The clerk of the circuit court shall accept
19 partial payments for court-related fees, service charges,
20 costs, and fines in accordance with the terms of an
21 established payment plan. An individual seeking to defer
22 payment of fees, service charges, costs, or fines imposed by
23 operation of law or order of the court under any provision of
24 general law shall apply to the clerk for enrollment in a
25 payment plan. The clerk shall enter into a payment plan with
26 an individual who the court determines is indigent for costs.
27 A monthly payment amount, calculated based upon all fees and
28 all anticipated costs, is presumed to correspond to the
29 person's ability to pay if it does not exceed 2 percent of the
30 person's annual net income, as defined in s. 27.52(1), divided
31 by 12. The court may review the reasonableness of the payment

1 ~~plan, and determined by the court to be unable to make payment~~
2 ~~in full, shall be enrolled by the clerk in a payment program,~~
3 ~~with periodic payment amounts corresponding to the~~
4 ~~individual's ability to pay.~~

5 Section 11. Section 28.345, Florida Statutes, is
6 amended to read:

7 28.345 Exemption from court-related fees and
8 charges.--Notwithstanding any other provision of this chapter
9 or law to the contrary, judges and those court staff acting on
10 behalf of judges, state attorneys, guardians ad litem, public
11 guardians, attorneys ad litem, court-appointed private
12 counsel, and public defenders, acting in their official
13 capacity, and state agencies, are exempt from all
14 court-related fees and charges assessed by the clerks of the
15 circuit courts.

16 Section 12. Paragraph (a) of subsection (3) of section
17 28.35, Florida Statutes, is amended to read:

18 28.35 Florida Clerks of Court Operations
19 Corporation.--

20 (3)(a) The Clerks of Court Operations Corporation
21 shall certify to the President of the Senate, the Speaker of
22 the House of Representatives, the Chief Financial Officer, and
23 the Department of Revenue by October 15 of each year, the
24 amount of the proposed budget certified for each clerk; the
25 revenue projection supporting each clerk's budget; each clerk
26 eligible to retain some or all of the state's share of fines,
27 fees, service charges, and costs; the amount to be paid to
28 each clerk from the Clerks of the Court Trust Fund within the
29 Department of Revenue; the performance measures and standards
30 approved by the conference for each clerk; and the performance
31 of each clerk in meeting the performance standards. This

1 certification must also include a report of any additional
2 budget funding authority the corporation approves for a clerk
3 under s. 28.36(6), as well as the documentation required under
4 s. 28.36 relating to the factual basis for the approval.

5 Section 13. Paragraph (a) of subsection (3) and
6 paragraph (b) of subsection (4) of section 28.36, Florida
7 Statutes, are amended, present subsection (6) of that section
8 is redesignated as subsection (7), and a new subsection (6) is
9 added to that section, to read:

10 28.36 Budget procedure.--There is hereby established a
11 budget procedure for the court-related functions of the clerks
12 of the court.

13 (3) Each proposed budget shall further conform to the
14 following requirements:

15 (a) On or before August 15 ~~±~~ for each fiscal year
16 thereafter, the proposed budget shall be prepared, summarized,
17 and submitted by the clerk in each county to the Clerks of
18 Court Operations Corporation in the manner and form prescribed
19 by the corporation ~~conference~~. The proposed budget must
20 provide detailed information on the anticipated revenues
21 available and expenditures necessary for the performance of
22 the standard list of court-related functions of the clerk's
23 office developed pursuant to s. 28.35(4)(a) for the county
24 fiscal year beginning the following October 1.

25 (4) If a clerk of the court estimates that available
26 funds plus projected revenues from fines, fees, service
27 charges, and costs for court-related services are insufficient
28 to meet the anticipated expenditures for the standard list of
29 court-related functions in s. 28.35(4)(a) performed by his or
30 her office, the clerk must report the revenue deficit to the
31 Clerks of Court Operations Corporation in the manner and form

1 prescribed by the corporation pursuant to contract with the
2 Chief Financial Officer. The corporation shall verify that the
3 proposed budget is limited to the standard list of
4 court-related functions in s. 28.35(4)(a).

5 (b) If the Chief Financial Officer, after reviewing a
6 clerk's approved court-related budget, Department of Revenue
7 finds that the court-related budget proposed by a clerk
8 includes functions not included in the standard list of
9 court-related functions in s. 28.35(4)(a) s. 28.35(3)(a), the
10 Chief Financial Officer department shall notify the clerk of
11 the amount of the proposed budget not eligible to be funded
12 from fees, service charges, costs, and fines for court-related
13 functions, and shall identify appropriate corrective measures
14 to assure budget integrity. The clerk shall then immediately
15 discontinue all ineligible the expenditures of court-related
16 funds for this purpose and reimburse the Clerks of the Court
17 Trust Fund for any previous ineligible expenditures made for
18 noncourt-related functions, and shall implement any corrective
19 actions identified by the Chief Financial Officer incurred to
20 date for these functions.

21 (6) The Florida Clerks of Court Operations Corporation
22 may approve funding and adjust the maximum of a clerk's
23 authorized court-related budget in excess of the amount
24 otherwise authorized to be funded in this section if the
25 corporation finds that additional funding is necessary for the
26 clerk to perform the standard list of court-related functions
27 in s. 28.35(4)(a) and one of the following conditions exists:

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

31

1 (b) The additional funding is reasonable and necessary
2 to pay the additional costs required for the clerk to support
3 increases in the number of judges and other judicial resources
4 authorized by the Legislature; or

5 (c) The additional funding is reasonable and necessary
6 to satisfy court-related expenses incurred by the clerk which
7 result from increases in previously funded fixed expenses
8 outside the control of the clerk or to meet increases
9 resulting from contractual obligations entered into prior to
10 July 1, 2004.

11
12 Before approving additional funding in excess of the maximum
13 annual budget amounts, as authorized by this subsection, the
14 corporation must document in detail the factual basis for the
15 approval. Within 30 days after approving additional funding,
16 the corporation shall notify the Chief Financial Officer of
17 the action and submit to him or her the documentation relating
18 to the factual basis for the approval.

19 Section 14. Subsection (4) of section 28.37, Florida
20 Statutes, is amended to read:

21 28.37 Fines, fees, service charges, and costs remitted
22 to the state.--

23 (4) Beginning January 1, 2005, for the period July 1,
24 2004, through September 30, 2004, and each January 1
25 thereafter for the preceding county fiscal year of October 1
26 through September 30, the clerk of the court must remit to the
27 Department of Revenue for deposit in the General Revenue Fund
28 the cumulative excess of all fees, service charges, court
29 costs, and fines retained by the clerks of the court, plus any
30 funds received by the clerks of the court from the Department
31 of Revenue's Clerk of the Court Trust Fund under s.

1 28.36(4)(a), over the amount needed to meet the approved
2 budget amounts established under s. 28.36.

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

5 29.004 State courts system.--For purposes of
6 implementing s. 14, Art. V of the State Constitution, the
7 elements of the state courts system to be provided from state
8 revenues appropriated by general law are as follows:

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

12 Section 16. Section 29.007, Florida Statutes, is
13 amended to read:

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

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

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

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

31

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

6 (5) Mental health professionals appointed pursuant to
7 s. 394.473 and required in a court hearing involving an
8 indigent, ~~and~~ mental health professionals appointed pursuant
9 to s. 916.115(2) and required in a court hearing involving an
10 indigent, and any other mental health professionals required
11 by law for the full adjudication of any civil case involving
12 an indigent person.

13 (6) Reasonable pretrial consultation fees and costs.

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

17
18 Subsections (3), (4), (5), (6), and (7) apply when
19 court-appointed counsel is appointed; when the litigant
20 retains, or is represented on a pro-bono basis by, a private
21 attorney and the court determines that the litigant is
22 indigent for costs; or when the litigant is acting pro se and
23 the court determines that the litigant is indigent for costs
24 at the trial or appellate level. This section applies in any
25 situation in which the court appoints counsel to protect a
26 litigant's due-process rights. The Justice Administrative
27 Commission shall approve uniform contract forms for use in
28 processing due-process services under this section. In each
29 case in which a private attorney represents a person
30 determined by the court to be indigent for costs, the attorney
31

1 shall execute the commission's contract for private attorneys
2 representing persons who are indigent for costs.

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

5 29.008 County funding of court-related functions.--

6 (1) Counties are required by s. 14, Art. V of the
7 State Constitution to fund the cost of communications
8 services, existing radio systems, existing multiagency
9 criminal justice information systems, and the cost of
10 construction or lease, maintenance, utilities, and security of
11 facilities for the circuit and county courts, public
12 defenders' offices, state attorneys' offices, guardian ad
13 litem offices, and the offices of the clerks of the circuit
14 and county courts performing court-related functions. For
15 purposes of this section, the term "circuit and county courts"
16 shall include the offices and staffing of the guardian ad
17 litem programs. The county designated under s. 35.05(1) as the
18 headquarters for each appellate district shall fund these
19 costs for the appellate division of the public defender's
20 office in that county. For purposes of implementing these
21 requirements, the term:

22 (a) "Facility" means reasonable and necessary
23 buildings and office space and appurtenant equipment and
24 furnishings, structures, real estate, easements, and related
25 interests in real estate, including, but not limited to, those
26 for the purpose of housing legal materials for use by the
27 general public and personnel, equipment, or functions of the
28 circuit or county courts, public defenders' offices, state
29 attorneys' offices, and court-related functions of the office
30 of the clerks of the circuit and county courts and all
31 storage. The term "facility" includes all wiring necessary for

1 court-reporting services. The term also includes access to
2 parking for such facilities in connection with such
3 court-related functions that may be available free or from a
4 private provider or a local government for a fee. The office
5 space provided by a county may not be less than the standards
6 for space allotment adopted by the Department of Management
7 Services, except that this requirement applies only to
8 facilities that are leased, or on which construction
9 commences, after June 30, 2003. County funding must include
10 physical modifications and improvements to all facilities as
11 are required for compliance with the Americans with
12 Disabilities Act. Upon mutual agreement of a county and the
13 affected entity in this paragraph, the office space provided
14 by the county may vary from the standards for space allotment
15 adopted by the Department of Management Services. ~~This section~~
16 ~~applies only to facilities that are leased, or on which~~
17 ~~construction commences, after June 30, 2003.~~

18 1. As of July 1, 2005, equipment and furnishings shall
19 be limited to that appropriate and customary for courtrooms,
20 hearing rooms, jury facilities, and other public areas in
21 courthouses and any other facility occupied by the courts,
22 state attorneys, and public defenders. Court-reporting
23 equipment in these areas or facilities is not a responsibility
24 of the county.

25 2. Equipment and furnishings under this paragraph in
26 existence and owned by counties on July 1, 2005, except for
27 that in the possession of the clerks, for areas other than
28 courtrooms, hearing rooms, jury facilities, and other public
29 areas in courthouses and any other facility occupied by the
30 courts, state attorneys, and public defenders, shall be
31 transferred to the state at no charge. This provision does not

1 apply to any communication services as defined in paragraph
2 (f).

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

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

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

31

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

12 (f) "Communications services" are defined as any
13 reasonable and necessary transmission, emission, and reception
14 of signs, signals, writings, images, and sounds of
15 intelligence of any nature by wire, radio, optical, audio
16 equipment, or other electromagnetic systems and includes all
17 facilities and equipment owned, leased, or used by judges,
18 clerks, public defenders, state attorneys, and all staff of
19 the state courts system, state attorneys' offices, public
20 defenders' offices, and clerks of the circuit and county
21 courts performing court-related functions. Such system or
22 services shall include, but not be limited to:

23 1. Telephone system infrastructure, including computer
24 lines, telephone switching equipment, and maintenance, and
25 facsimile equipment, wireless communications, cellular
26 telephones, pagers, and video teleconferencing equipment and
27 line charges. Each county shall continue to provide access to
28 a local carrier for local and long distance service and shall
29 pay toll charges for local and long distance service.

30 2. All computer networks, systems and equipment,
31 including computer hardware and software, modems, printers,

1 wiring, network connections, maintenance, support staff or
2 services including any county-funded support staff located in
3 the offices of the circuit court, county courts, state
4 attorneys, and public defenders, training, supplies, and line
5 charges necessary for an integrated computer system to support
6 the operations and management of the state courts system, the
7 offices of the public defenders, the offices of the state
8 attorneys, and the offices of the clerks of the circuit and
9 county courts and the capability to connect those entities and
10 reporting data to the state as required for the transmission
11 of revenue, performance accountability, case management, data
12 collection, budgeting, and auditing purposes. The integrated
13 computer system shall be operational by July 1, 2006, and, at
14 a minimum, permit the exchange of financial, performance
15 accountability, case management, case disposition, and other
16 data across multiple state and county information systems
17 involving multiple users at both the state level and within
18 each judicial circuit and be able to electronically exchange
19 judicial case background data, sentencing scoresheets, and
20 video evidence information stored in integrated case
21 management systems over secure networks. Once the integrated
22 system becomes operational, counties may reject requests to
23 purchase communication services included in this subparagraph
24 not in compliance with standards, protocols, or processes
25 adopted by the board established pursuant to s. 29.0086.

26 3. Courier messenger and subpoena services.

27 4. Auxiliary aids and services for qualified
28 individuals with a disability which are necessary to ensure
29 access to the courts. Such auxiliary aids and services
30 include, but are not limited to, sign language interpretation
31 services required under the federal Americans with

1 Disabilities Act other than services required to satisfy due
2 process requirements and identified as a state funding
3 responsibility pursuant to ss. 29.004, 29.005, 29.006, and
4 29.007, real-time transcription services for individuals who
5 are hearing impaired, and assistive listening devices and the
6 equipment necessary to implement such accommodations.

7 (g) "Existing radio systems" includes, but is not
8 limited to, law enforcement radio systems that are used by the
9 circuit and county courts, the offices of the public
10 defenders, the offices of the state attorneys, and for
11 court-related functions of the offices of the clerks of the
12 circuit and county courts. This includes radio systems that
13 were operational or under contract at the time Revision No. 7,
14 1998, to Art. V of the State Constitution was adopted and any
15 enhancements made thereafter, the maintenance of those
16 systems, and the personnel and supplies necessary for
17 operation.

18 (h) "Existing multiagency criminal justice information
19 systems" includes, but is not limited to, those components of
20 the multiagency criminal justice information system as defined
21 in s. 943.045, supporting the offices of the circuit or county
22 courts, the public defenders' offices, the state attorneys'
23 offices, or those portions of the offices of the clerks of the
24 circuit and county courts performing court-related functions
25 that are used to carry out the court-related activities of
26 those entities. This includes upgrades and maintenance of the
27 current equipment, maintenance and upgrades of supporting
28 technology infrastructure and associated staff, and services
29 and expenses to assure continued information sharing and
30 reporting of information to the state. The counties shall also
31 provide additional information technology services, hardware,

1 and software as needed for new judges and staff of the state
2 courts system, state attorneys' offices, public defenders'
3 offices, and the offices of the clerks of the circuit and
4 county courts performing court-related functions.

5 Section 18. Section 29.0081, Florida Statutes, is
6 created to read:

7 29.0081 County funding of additional court
8 personnel.--

9 (1) A county and the chief judge of a judicial circuit
10 that includes that county may enter into an agreement under
11 which the county funds personnel positions to assist in the
12 operation of the circuit.

13 (2) The agreement shall, at a minimum, provide that:

14 (a) Funding for the positions is provided on at least
15 a court fiscal-year basis;

16 (b) The personnel whose employment is funded under the
17 agreement are employees of the judicial circuit and are hired,
18 supervised, managed, and fired by personnel of the judicial
19 circuit; and

20 (c) The positions terminate upon the expiration of, or
21 substantial breach of, the agreement or upon the expiration of
22 county funding for the positions.

23 (3) Positions funded under this section shall be
24 full-time equivalent positions of the judicial circuit but
25 shall not count against any formula or similar process used by
26 the Office of the State Courts Administrator to determine
27 personnel needs or levels of a judicial circuit.

28 (4) Nothing in this section obligates the state to
29 fund any personnel positions.

30 Section 19. Subsection (2) of section 29.015, Florida
31 Statutes, is amended to read:

1 29.015 Contingency fund; limitation of authority to
2 transfer funds in contracted due process services
3 appropriation categories.--

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

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

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

1 ~~amendment pursuant to chapter 216 request a budget amendment~~
2 ~~to transfer funds from the office or offices to alleviate the~~
3 ~~deficit upon agreement of the contributing office or offices.~~

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

15 Section 20. Section 29.018, Florida Statutes, is
16 amended to read:

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

31

1 Section 21. Section 29.0185, Florida Statutes, is
2 created to read:

3 29.0185 Provision of state-funded due-process services
4 to individuals.--Due-process services may not be provided with
5 state revenues to an individual unless:

6 (1) The individual on whose behalf the due-process
7 services are being provided is eligible for court-appointed
8 counsel under s. 27.40, based upon a determination of
9 indigency under s. 27.52, regardless of whether such counsel
10 is appointed; or

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

13 Section 22. Subsection (1) of section 34.045, Florida
14 Statutes, is amended to read:

15 34.045 Cost recovery; use of the county court for
16 ordinance or special law violations.--

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

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

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

5 3. Instances in which the filing of a violation of a
6 county or municipal code or ordinance or a violation of a
7 special law also includes a violation of state law.

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

18 (c) If the person does not contest the violation in
19 court, or if the county or municipality is the prevailing
20 party, the court shall assess the person or nonprevailing
21 party \$10 for the filing fee provided in paragraph (a), which
22 amount shall be forwarded to the county or municipality.

23 Section 23. Effective upon this act becoming a law,
24 section 34.191, Florida Statutes, is amended to read:

25 34.191 Fines and forfeitures; dispositions.--

26 (1) All fines and forfeitures arising from offenses
27 tried in the county court shall be collected and accounted for
28 by the clerk of the court and, other than the charge provided
29 in s. 318.1215, disbursed in accordance with ss. 28.2402,
30 34.045, 142.01, and 142.03 ~~142.13~~ and subject to the
31 provisions of s. 28.246(5) and (6). Notwithstanding the

1 provisions of this section, all fines and forfeitures arising
2 from operation of the provisions of s. 318.1215 shall be
3 disbursed in accordance with that section.

4 (2)(a) All fines and forfeitures received from
5 violations of municipal ordinances committed within a
6 municipality within the territorial jurisdiction of the county
7 court, other than the charge provided in s. 318.1215, shall be
8 paid monthly to the municipality except as provided in s.
9 28.2402(2), s. 34.045(2), s. 318.21, or s. 943.25. For
10 purposes of this section, a municipality does not include the
11 unincorporated areas, if any, of a government created pursuant
12 to s. 6(e), Art. VIII of the State Constitution.

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

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

22 Section 24. Subsection (3) of section 39.0132, Florida
23 Statutes, is amended to read:

24 39.0132 Oaths, records, and confidential
25 information.--

26 (3) The clerk shall keep all court records required by
27 this chapter separate from other records of the circuit court.
28 All court records required by this chapter shall not be open
29 to inspection by the public. All records shall be inspected
30 only upon order of the court by persons deemed by the court to
31 have a proper interest therein, except that, subject to the

1 provisions of s. 63.162, a child and the parents of the child
2 and their attorneys, guardian ad litem, law enforcement
3 agencies, and the department and its designees shall always
4 have the right to inspect and copy any official record
5 pertaining to the child. The Justice Administrative Commission
6 may inspect court dockets required by this chapter as
7 necessary to audit compensation of court-appointed attorneys.
8 If the docket is insufficient for purposes of the audit, the
9 commission may petition the court for additional documentation
10 as necessary and appropriate. The court may permit authorized
11 representatives of recognized organizations compiling
12 statistics for proper purposes to inspect and make abstracts
13 from official records, under whatever conditions upon their
14 use and disposition the court may deem proper, and may punish
15 by contempt proceedings any violation of those conditions.

16 Section 25. Subsection (1) of section 39.821, Florida
17 Statutes, is amended to read:

18 39.821 Qualifications of guardians ad litem.--

19 (1) Because of the special trust or responsibility
20 placed in a guardian ad litem, the Guardian Ad Litem Program
21 may use any private funds collected by the program, or any
22 state funds so designated, to conduct a security background
23 investigation before certifying a volunteer to serve. A
24 security background investigation must include, but need not
25 be limited to, employment history checks, checks of
26 references, local criminal records checks through local law
27 enforcement agencies, and statewide criminal records checks
28 through the Department of Law Enforcement. Upon request, an
29 employer shall furnish a copy of the personnel record for the
30 employee or former employee who is the subject of a security
31 background investigation conducted under this section. The

1 | information contained in the personnel record may include, but
2 | need not be limited to, disciplinary matters and the reason
3 | why the employee was terminated from employment. An employer
4 | who releases a personnel record for purposes of a security
5 | background investigation is presumed to have acted in good
6 | faith and is not liable for information contained in the
7 | record without a showing that the employer maliciously
8 | falsified the record. A security background investigation
9 | conducted under this section must ensure that a person is not
10 | certified as a guardian ad litem if the person has been
11 | convicted of, regardless of adjudication, or entered a plea of
12 | nolo contendere or guilty to, any offense prohibited under the
13 | provisions of the Florida Statutes specified in s. 435.04(2)
14 | or under any similar law in another jurisdiction. Before
15 | certifying an applicant to serve as a guardian ad litem, the
16 | Guardian Ad Litem Program ~~chief judge of the circuit court~~ may
17 | request a federal criminal records check of the applicant
18 | through the Federal Bureau of Investigation. In analyzing and
19 | evaluating the information obtained in the security background
20 | investigation, the program must give particular emphasis to
21 | past activities involving children, including, but not limited
22 | to, child-related criminal offenses or child abuse. The
23 | program has the sole discretion in determining whether to
24 | certify a person based on his or her security background
25 | investigation. The information collected pursuant to the
26 | security background investigation is confidential and exempt
27 | from s. 119.07(1).

28 | Section 26. Section 39.822, Florida Statutes, is
29 | amended to read:

30 | 39.822 Appointment of guardian ad litem for abused,
31 | abandoned, or neglected child.--

1 (1) A guardian ad litem shall be appointed by the
2 court at the earliest possible time to represent the child in
3 any child abuse, abandonment, or neglect judicial proceeding,
4 whether civil or criminal. Any person participating in a civil
5 or criminal judicial proceeding resulting from such
6 appointment shall be presumed prima facie to be acting in good
7 faith and in so doing shall be immune from any liability,
8 civil or criminal, that otherwise might be incurred or
9 imposed.

10 (2) In those cases in which the parents are
11 financially able, the parent or parents of the child shall
12 reimburse the court, in part or in whole, for the cost of
13 provision of guardian ad litem services. Reimbursement to the
14 individual providing guardian ad litem services shall not be
15 contingent upon successful collection by the court from the
16 parent or parents.

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

19 (a) An agency, defined in chapter 119, shall allow the
20 guardian ad litem to inspect and copy records related to the
21 best interests of the child who is the subject of the
22 appointment, including, but not limited to, records made
23 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I
24 of the State Constitution. The guardian ad litem shall
25 maintain the confidential or exempt status of any records
26 shared by an agency under this paragraph.

27 (b) A person or organization, other than an agency
28 under paragraph (a), shall allow the guardian ad litem to
29 inspect and copy any records related to the best interests of
30 the child who is the subject of the appointment, including,
31 but not limited to, confidential records.

1
2 For the purposes of this subsection, the term "records related
3 to the best interests of the child" includes, but is not
4 limited to, medical, mental health, substance abuse, child
5 care, education, law enforcement, court, social services, and
6 financial records.

7 ~~(4)(3)~~ The guardian ad litem or the program
8 representative shall review all disposition recommendations
9 and changes in placements, and must be present at all critical
10 stages of the dependency proceeding or submit a written report
11 of recommendations to the court. Written reports must be filed
12 with the court and served on all parties whose whereabouts are
13 known at least 72 hours prior to the hearing.

14 Section 27. Subsection (1) of section 40.29, Florida
15 Statutes, is amended to read:

16 40.29 Payment of due process costs.--

17 (1)(a) Each clerk of the circuit court, on behalf of
18 the courts, the state attorney, ~~and~~ the public defender, and
19 court-appointed counsel, shall forward to the Justice
20 Administrative Commission, by county, a quarterly estimate of
21 funds necessary to pay for ordinary witnesses, including, but
22 not limited to, witnesses in civil traffic cases and witnesses
23 of the state attorney, public defender, court-appointed
24 counsel, and persons determined to be indigent for costs
25 ~~except expert witnesses paid pursuant to a contract or other~~
26 ~~professional services agreement, pursuant to ss. 29.005 and~~
27 ~~29.006. Each quarter of the state fiscal year, the commission,~~
28 based upon the estimates, shall advance funds to each clerk to
29 pay for these ordinary witnesses from state funds specifically
30 appropriated for the payment of ordinary witnesses.

1 (b) Each clerk of the circuit court shall forward to
2 the Office of the State Courts Administrator, by county, a
3 quarterly estimate of funds necessary to pay juror
4 compensation.

5 Section 28. Section 40.355, Florida Statutes, is
6 created to read:

7 40.355 Accounting and payment to public defenders and
8 state attorneys.--The clerk of the court shall, within 2 weeks
9 after the last day of the state's quarterly fiscal period,
10 render to the state attorney and the public defender in each
11 circuit a full statement of accounts for moneys received and
12 disbursed under this chapter.

13 Section 29. Subsections (5) and (6) of section 43.16,
14 Florida Statutes, are amended, and subsection (7) is added to
15 that section, to read:

16 43.16 Justice Administrative Commission; membership,
17 powers and duties.--

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

20 (a) The maintenance of a central state office for
21 administrative services and assistance when possible to and on
22 behalf of the state attorneys and public defenders of Florida,
23 the office of capital collateral representative of Florida,
24 and the guardian ad litem program ~~Judicial Qualifications~~
25 ~~Commission.~~

26 (b) Each state attorney and public defender and the
27 guardian ad litem program ~~Judicial Qualifications Commission~~
28 shall continue to prepare necessary budgets, vouchers which
29 represent valid claims for reimbursement by the state for
30 authorized expenses, and other things incidental to the proper
31 administrative operation of the office, such as revenue

1 transmittals to the Chief Financial Officer and automated
2 systems plans, but will forward same to the commission for
3 recording and submission to the proper state officer. However,
4 when requested by a state attorney, ~~or~~ a public defender, or
5 the guardian ad litem program ~~Judicial Qualifications~~
6 ~~Commission~~, the commission will either assist in the
7 preparation of budget requests, voucher schedules, and other
8 forms and reports or accomplish the entire project involved.

9 (6) The provisions contained in this section shall be
10 supplemental to those of chapter 27, relating to state
11 attorneys and public defenders; to those of chapter 39 s-
12 ~~43.20~~, relating to the guardian ad litem program ~~Judicial~~
13 ~~Qualifications Commission~~; or to other laws pertaining hereto.

14 (7) Chapter 120 does not apply to the Justice
15 Administrative Commission.

16 Section 30. Subsection (6) is added to section 43.26,
17 Florida Statutes, to read:

18 43.26 Chief judge of circuit; selection; powers.--

19 (6) The chief judge of each circuit is charged by s.
20 2(d), Art. V of the State Constitution and this section with
21 the authority to promote the prompt and efficient
22 administration of justice in the courts over which he or she
23 is chief judge. The clerks of court provide court-related
24 functions that are essential to the orderly administration of
25 the judicial branch. The chief judge of each circuit, after
26 consultation with the clerk of court, shall determine the
27 priority of services provided by the clerk of court to the
28 trial court. The clerk of court shall manage the performance
29 of such services in a method or manner that is consistent with
30 statute, court rule, or administrative order.

1 Section 31. Paragraph (b) of subsection (4) of section
2 44.102, Florida Statutes, is amended to read:

3 44.102 Court-ordered mediation.--

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

8 (b) Nonvolunteer mediators shall be compensated
9 according to rules adopted by the Supreme Court. If a
10 mediation program is not funded pursuant to s. 44.108, a
11 mediator may be compensated by the county or by the parties.

12 ~~When a party has been declared indigent or insolvent, that~~
13 ~~party's pro rata share of a mediator's compensation shall be~~
14 ~~paid by the county at the rate set by administrative order of~~
15 ~~the chief judge of the circuit.~~

16 Section 32. Section 44.108, Florida Statutes, is
17 amended to read:

18 44.108 Funding of mediation and arbitration.--

19 (1) Mediation and arbitration should be accessible to
20 all parties regardless of financial status. A filing fee of \$1
21 is levied on all proceedings in the circuit or county courts
22 to fund mediation and arbitration services which are the
23 responsibility of the Supreme Court pursuant to the provisions
24 of s. 44.106. The clerk of the court shall forward the moneys
25 collected to the Department of Revenue for deposit in the
26 state courts' Mediation and Arbitration Trust Fund.

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

31

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

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

7 (c) Forty dollars per person per scheduled session in
8 county court cases.

9
10 No mediation fees shall be assessed under this subsection in
11 residential eviction cases, against a party found to be
12 indigent, or for any small claims action. Fees collected by
13 the clerk of court pursuant to this section shall be remitted
14 to the Department of Revenue for deposit into the state
15 courts' Mediation and Arbitration Trust Fund to fund
16 court-ordered mediation. The clerk of court may deduct \$1 per
17 fee assessment for processing this fee. The clerk of the court
18 shall submit to the chief judge of the circuit, no later than
19 30 days after the end of each quarter, a report specifying the
20 amount of funds collected under this section during each
21 quarter of the fiscal year.

22 Section 33. Subsection (1) of section 57.081, Florida
23 Statutes, is amended to read:

24 57.081 Costs; right to proceed where prepayment of
25 costs waived.--

26 (1) Any indigent person, except a prisoner as defined
27 in s. 57.085, who is a party or intervenor in any judicial or
28 administrative agency proceeding or who initiates such
29 proceeding shall receive the services of the courts, sheriffs,
30 and clerks, with respect to such proceedings, despite his or
31 her present inability to pay for these services. Such services

1 are limited to filing fees; service of process; certified
2 copies of orders or final judgments; a single photocopy of any
3 court pleading, record, or instrument filed with the clerk;
4 examining fees; mediation services and fees; private
5 court-appointed counsel fees; subpoena fees and services;
6 service charges for collecting and disbursing funds; and any
7 other cost or service arising out of pending litigation. In
8 any appeal from an administrative agency decision, for which
9 the clerk is responsible for preparing the transcript, the
10 clerk shall record the cost of preparing the transcripts and
11 the cost for copies of any exhibits in the record. Prepayment
12 of costs to any court, clerk, or sheriff is not required in
13 any action if the party has obtained in each proceeding a
14 certification of indigence in accordance with s. 27.52 or s.
15 57.082.

16 Section 34. Section 57.082, Florida Statutes, is
17 created to read:

18 57.082 Determination of civil indigent status.--

19 (1) APPLICATION TO THE CLERK.--A person seeking
20 appointment of a private attorney in a type of civil case for
21 which court-appointed counsel is authorized, or seeking relief
22 from prepayment of fees and costs under s. 57.081, based upon
23 an inability to pay must apply to the clerk of the court for a
24 determination of civil indigent status using an application
25 form developed by the Florida Clerks of Court Operations
26 Corporation and submitted to the Supreme Court for approval.

27 (a) The application must include, at a minimum, the
28 following financial information:

29 1. Net income, consisting of total salary and wages,
30 minus deductions required by law, including court-ordered
31 support payments.

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

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

10 4. All liabilities and debts.

11
12 The application must include a signature by the applicant
13 which attests to the truthfulness of the information provided.
14 The application form developed by the corporation must include
15 notice that the applicant may seek court review of a clerk's
16 determination that the applicant is not indigent, as provided
17 in this section.

18 (b) The clerk shall assist a person who appears before
19 the clerk and requests assistance in completing the
20 application, and the clerk shall notify the court if a person
21 is unable to complete the application after the clerk has
22 provided assistance.

23 (c) The clerk shall accept an application that is
24 signed by the applicant and submitted on his or her behalf by
25 a private attorney who is representing the applicant in the
26 applicable matter.

27 (2) DETERMINATION BY THE CLERK.--The clerk of the
28 court shall determine whether an applicant seeking such
29 designation is indigent based upon the information provided in
30 the application and the criteria prescribed in this
31 subsection.

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

7 2. There is a presumption that the applicant is not
8 indigent if the applicant owns, has equity in, or has the
9 expectancy of any interest in any intangible or tangible
10 personal property or real property having a net equity value
11 of \$2,500 or more, excluding the value of the person's
12 homestead and one vehicle having a net value not exceeding
13 \$5,000.

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

16 1. The applicant is not indigent.

17 2. The applicant is indigent.

18 (c) If the clerk determines that the applicant is
19 indigent, the clerk shall immediately file the determination
20 in the case record.

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

30 (e) The applicant may seek review of the clerk's
31 determination that the applicant is not indigent in the court

1 having jurisdiction over the matter by filing a petition to
2 review the clerk's determination of nonindigent status for
3 which a filing fee may not be charged. If the applicant seeks
4 review of the clerk's determination of indigent status, the
5 court shall make a final determination as provided in
6 subsection (4).

7 (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If
8 the clerk of the court has not made a determination of
9 indigent status at the time a person requests appointment of a
10 private attorney in a civil case eligible for court-appointed
11 counsel, the court shall make a preliminary determination of
12 indigent status, pending further review by the clerk, and may,
13 by court order, appoint private counsel on an interim basis.

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

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

22 1. Whether paying for private counsel or other fees
23 and costs creates a substantial hardship for the applicant or
24 the applicant's family.

25 2. Whether the applicant is proceeding pro se or is
26 represented by a private attorney for a fee or on a pro-bono
27 basis.

28 3. When the applicant retained private counsel.

29 4. The amount of any attorney's fees and who is paying
30 the fees.

31

1 5. Any other relevant financial circumstances of the
2 applicant or the applicant's family.

3 (b) Based upon its review, the court shall make one of
4 the following determinations and shall, if appropriate,
5 appoint private counsel:

6 1. The applicant is not indigent.

7 2. The applicant is indigent.

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

9 (a) A person who the clerk or the court determines is
10 indigent for civil proceedings under this section shall, upon
11 the request of the party, be enrolled in a payment plan under
12 s. 28.246 and shall be charged an administrative fee under s.
13 28.24(26)(b) and (c). A monthly payment amount, calculated
14 based upon all fees and all anticipated costs, is presumed to
15 correspond to the person's ability to pay if it does not
16 exceed 2 percent of the person's annual net income, as defined
17 in subsection (1), divided by 12. The person may seek review
18 of the clerk's decisions regarding a payment plan established
19 under s. 28.246 in the court having jurisdiction over the
20 matter. A case may not be impeded in any way, delayed in
21 filing, or delayed in its progress, including the final
22 hearing and order, due to nonpayment of any fees by an
23 indigent person.

24 (b) Notwithstanding paragraph (a), a person who the
25 clerk or the court determines is indigent is entitled to the
26 waiver of all costs for the services listed in s. 57.081 if
27 that person's income is equal to or below 150 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 (6) FINANCIAL DISCREPANCIES; FRAUD; FALSE
4 INFORMATION.--

5 (a) If the court learns of discrepancies between the
6 application and the actual financial status of the person
7 found to be indigent, the court shall determine whether the
8 status and any relief provided as a result of that status
9 shall be revoked. The person may be heard regarding the
10 information learned by the court. If the court, based on the
11 information, determines that the person is not indigent, the
12 court shall revoke the provision of any relief under this
13 section.

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

26 (c) A person who knowingly provides false information
27 to the clerk or the court in seeking a determination of
28 indigent status under this section commits a misdemeanor of
29 the first degree, punishable as provided in s. 775.082 or s.
30 775.083.

31

1 Section 35. Subsection (1) of section 92.142, Florida
2 Statutes, is amended to read:

3 92.142 Witnesses; pay.--

4 (1) Witnesses in all cases, civil and criminal, in all
5 courts, now or hereafter created, and witnesses summoned
6 before any arbitrator or general or special magistrate
7 appointed by the court shall receive for each day's actual
8 attendance \$5 and also 6 cents per mile for actual distance
9 traveled to and from the courts. A witness in a criminal case
10 required to appear in a county other than the county of his or
11 her residence and residing more than 50 miles from the
12 location of the trial shall be entitled to per diem and travel
13 expenses at the same rate provided for state employees under
14 s. 112.061, in lieu of any other witness fee ~~at the discretion~~
15 ~~of the court.~~

16 Section 36. Effective July 1, 2006, subsections (2)
17 and (3) of section 92.231, Florida Statutes, are amended to
18 read:

19 92.231 Expert witnesses; fee.--

20 (2) Any expert or skilled witness who shall have
21 testified in any cause shall be allowed a witness fee
22 including the cost of any exhibits used by such witness in an
23 amount agreed to by the parties, and the same shall be taxed
24 as costs. In instances where services are provided for the
25 state, including for state-paid private court-appointed
26 counsel, payment from state funds shall be in accordance with
27 standards adopted by the Legislature ~~after receiving~~
28 ~~recommendations from the Article V Indigent Services Advisory~~
29 ~~Board.~~

30 (3) In a criminal case in which the state or an
31 indigent defendant requires the services of an expert witness

1 whose opinion is relevant to the issues of the case, the
2 expert witness shall be compensated in accordance with
3 standards adopted by the Legislature ~~after receiving~~
4 ~~recommendations from the Article V Indigent Services Advisory~~
5 ~~Board.~~

6 Section 37. Paragraph (y) is added to subsection (2)
7 of section 110.205, Florida Statutes, to read:

8 110.205 Career service; exemptions.--

9 (2) EXEMPT POSITIONS.--The exempt positions that are
10 not covered by this part include the following:

11 (y) All officers and employees of the Justice
12 Administrative Commission, Office of the State Attorney,
13 Office of the Public Defender, regional offices of capital
14 collateral counsel, and Statewide Guardian Ad Litem Office,
15 including the circuit guardian ad litem programs.

16 Section 38. Subsection (1) of section 116.01, Florida
17 Statutes, is amended to read:

18 116.01 Payment of public funds into treasury.--

19 (1) Every state and county officer within this state
20 authorized to collect funds due the state or county shall pay
21 all sums officially received by the officer into the state or
22 county treasury not later than 7 working days from the close
23 of the week in which the officer received the funds. Funds
24 received by the county officer on behalf of the state shall be
25 deposited directly to the account of the State Treasury not
26 later than 7 working days from the close of the week in which
27 the officer received the funds. The clerk of the court, when
28 collecting funds as part of the clerk's court-related
29 functions, must remit those funds as required under s. 28.245.

30 Section 39. Subsections (1) and (4) of section 116.21,
31 Florida Statutes, are amended to read:

1 116.21 Unclaimed moneys; limitation.--

2 (1) The sheriffs and clerks of the courts of the
3 various counties of the state are authorized at their
4 discretion on or before September 25 of each and every year
5 hereafter to pay into the fine and forfeiture fund of their
6 respective counties, or the fine and forfeiture fund created
7 under s. 142.01, any or all unclaimed moneys deposited or
8 collected by them in their official capacity, which unclaimed
9 moneys came into their hands prior to January 1 of the
10 preceding year and for which moneys claim has not been made.
11 Any unclaimed moneys collected or deposited by the clerk of
12 the circuit court in the course of the clerk's court-related
13 activities may be processed under this chapter; however, the
14 clerk must pay for the cost of publication of the list of
15 unclaimed court-related funds. Any unclaimed court-related
16 funds collected or deposited by the clerk which remain
17 unclaimed must be deposited into the fine and forfeiture fund
18 established under s. 142.01.

19 (4) Except for the cost of publishing the notice for
20 the clerk's unclaimed court-related moneys, the cost of
21 publishing the notices as required by subsection (2) shall be
22 paid by the county commissioners, and the sheriff or the clerk
23 shall receive as compensation the regular fee allowed by
24 statute for the collection of fines, fees, and costs adjudged
25 to the state upon the amounts remitted to the fine and
26 forfeiture fund. Upon such payment to the fine and forfeiture
27 fund, the sheriff or clerk shall be released and discharged
28 from any and all further responsibility or liability in
29 connection therewith.

30 Section 40. Paragraph (gg) of subsection (6) of
31 section 119.07, Florida Statutes, is amended to read:

1 119.07 Inspection and copying of records;
2 photographing public records; fees; exemptions.--

3 (6)

4 (gg)1. Until January 1, 2007 ~~2006~~, if a social
5 security number, made confidential and exempt pursuant to s.
6 119.0721, created pursuant to s. 1, ch. 2002-256, passed
7 during the 2002 regular legislative session, or a complete
8 bank account, debit, charge, or credit card number made exempt
9 pursuant to paragraph (dd), created pursuant to s. 1, ch.
10 2002-257, passed during the 2002 regular legislative session,
11 is or has been included in a court file, such number may be
12 included as part of the court record available for public
13 inspection and copying unless redaction is requested by the
14 holder of such number, or by the holder's attorney or legal
15 guardian, in a signed, legibly written request specifying the
16 case name, case number, document heading, and page number. The
17 request must be delivered by mail, facsimile, electronic
18 transmission, or in person to the clerk of the circuit court.
19 The clerk of the circuit court does not have a duty to inquire
20 beyond the written request to verify the identity of a person
21 requesting redaction. A fee may not be charged for the
22 redaction of a social security number or a bank account,
23 debit, charge, or credit card number pursuant to such request.

24 2. Any person who prepares or files a document to be
25 recorded in the official records by the county recorder as
26 provided in chapter 28 may not include a person's social
27 security number or complete bank account, debit, charge, or
28 credit card number in that document unless otherwise expressly
29 required by law. Until January 1, 2007 ~~2006~~, if a social
30 security number or a complete bank account, debit, charge or
31 credit card number is or has been included in a document

1 presented to the county recorder for recording in the official
2 records of the county, such number may be made available as
3 part of the official record available for public inspection
4 and copying. Any person, or his or her attorney or legal
5 guardian, may request that a county recorder remove from an
6 image or copy of an official record placed on a county
7 recorder's publicly available Internet website, or a publicly
8 available Internet website used by a county recorder to
9 display public records outside the office or otherwise made
10 electronically available outside the county recorder's office
11 to the general public, his or her social security number or
12 complete account, debit, charge, or credit card number
13 contained in that official record. Such request must be
14 legibly written, signed by the requester, and delivered by
15 mail, facsimile, electronic transmission, or in person to the
16 county recorder. The request must specify the identification
17 page number of the document that contains the number to be
18 redacted. The county recorder does not have a duty to inquire
19 beyond the written request to verify the identity of a person
20 requesting redaction. A fee may not be charged for redacting
21 such numbers.

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

26 4. On January 1, 2007 ~~2006~~, and thereafter, the clerk
27 of the circuit court and the county recorder must keep
28 complete bank account, debit, charge, and credit card numbers
29 exempt as provided for in paragraph (dd), and must keep social
30 security numbers confidential and exempt as provided for in s.
31 119.0721, without any person having to request redaction.

1 Section 41. Section 142.01, Florida Statutes, is
2 amended to read:

3 142.01 Fine and forfeiture fund; clerk of the circuit
4 court.--There shall be established by the clerk of the circuit
5 court in each county of this state a separate fund to be known
6 as the fine and forfeiture fund for use by the clerk of the
7 circuit court in performing court-related functions. The fund
8 shall consist of the following:

9 (1) Fines and penalties pursuant to ss. 28.2402(2),
10 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

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

13 (3) Court costs pursuant to ss. 28.2402(1)(b),
14 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and
15 (11)(a), and 938.05(3).

16 (4) Proceeds from forfeited bail bonds, unclaimed
17 bonds, unclaimed moneys, or recognizances pursuant to ss.
18 321.05(4)(a), 372.72(1), and 903.26(3)(a).

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

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

22
23 Notwithstanding the provisions of this section, all fines and
24 forfeitures arising from operation of the provisions of s.
25 318.1215 shall be disbursed in accordance with that section.

26 Section 42. Subsection (5) is added to section 213.13,
27 Florida Statutes, to read:

28 213.13 Electronic remittance and distribution of funds
29 collected by clerks of the court.--

30 (5) All court-related collections, including fees,
31 fines, reimbursements, court costs, and other court-related

1 funds that the clerks must remit to the state pursuant to law,
2 must be transmitted electronically by the 20th day of the
3 month immediately following the month in which the funds are
4 collected.

5 Section 43. Section 219.07, Florida Statutes, is
6 amended to read:

7 219.07 Disbursements.--Each officer shall, not later
8 than 7 working days from the close of the week in which the
9 officer received the funds, distribute the money which is
10 required to be paid to other officers, agencies, funds, or
11 persons entitled to receive the same; provided, that
12 distributions or partial distributions may be made more
13 frequently; and provided further, that money required by law
14 or court order, or by the purpose for which it was collected,
15 to be held and disbursed for a particular purpose in a manner
16 different from that set out herein shall be held and disbursed
17 accordingly. Further, money collected by the county officer on
18 behalf of the state, except for money collected by the clerk
19 of the court as part of court-related functions, shall be
20 deposited directly to the account of the State Treasury not
21 later than 7 working days from the close of the week in which
22 the officer received the funds. The clerk of the court, when
23 collecting money as part of the clerk's court-related
24 functions, must remit that money as required under s. 28.245.

25 Section 44. Subsection (1) of section 219.075, Florida
26 Statutes, is amended to read:

27 219.075 Investment of surplus funds by county
28 officers.--

29 (1)(a) Except when another procedure is prescribed by
30 law or by ordinance as to particular funds, a tax collector or
31 any other county officer having, receiving, or collecting any

1 money, either for his or her office or on behalf of and
2 subject to subsequent distribution to another officer of state
3 or local government, while such money is in excess of that
4 required to meet current expenses or is pending distribution,
5 shall invest such money, without limitation, as provided in s.
6 218.415.

7 (b) These investments shall be planned so as not to
8 slow the normal distribution of the subject funds. The
9 investment earnings shall be reasonably apportioned and
10 allocated and shall be credited to the account of, and paid
11 to, the office or distributee, together with the principal on
12 which such earnings accrued.

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

17 Section 45. Section 318.121, Florida Statutes, is
18 amended to read:

19 318.121 Preemption of additional fees, fines,
20 surcharges, and costs.--Notwithstanding any general or special
21 law, or municipal or county ordinance, additional fees, fines,
22 surcharges, or costs, other than the court costs and
23 surcharges assessed under s. 318.18(11) and (13), may not be
24 added to the civil traffic penalties assessed in this chapter.

25 Section 46. Subsection (13) of section 318.18, Florida
26 Statutes, is amended to read:

27 318.18 Amount of civil penalties.--The penalties
28 required for a noncriminal disposition pursuant to s. 318.14
29 are as follows:

30 (13) In addition to any penalties imposed for
31 noncriminal traffic infractions pursuant to this chapter or

1 imposed for criminal violations listed in s. 318.17, a board
2 of county commissioners or any unit of local government which
3 is consolidated as provided by s. 9, Art. VIII of the State
4 Constitution of 1885, as preserved by s. 6(e), Art. VIII of
5 the Constitution of 1968:

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

9 (b) That imposed increased fees or service charges by
10 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the
11 purpose of securing payment of the principal and interest on
12 bonds issued by the county before July 1, 2003, to finance
13 state court facilities, may impose by ordinance a surcharge
14 for any infraction or violation for the exclusive purpose of
15 securing payment of the principal and interest on bonds issued
16 by the county before July 1, 2003, to fund state court
17 facilities until the date of stated maturity. The court shall
18 not waive this surcharge. Such surcharge may not exceed an
19 amount per violation calculated as the quotient of the maximum
20 annual payment of the principal and interest on the bonds as
21 of July 1, 2003, divided by the number of traffic citations
22 for county fiscal year 2002-2003 certified as paid by the
23 clerk of the court of the county. Such quotient shall be
24 rounded up to the next highest dollar amount. The bonds may be
25 refunded only if savings will be realized on payments of debt
26 service and the refunding bonds are scheduled to mature on the
27 same date or before the bonds being refunded.

28
29 A county may not impose both of the surcharges authorized
30 under paragraphs (a) and (b) concurrently. The clerk of court
31 shall report, no later than 30 days after the end of the

1 quarter, the amount of funds collected under this subsection
2 during each quarter of the fiscal year. The clerk shall submit
3 the report, in a format developed by the Office of State
4 Courts Administrator, to the chief judge of the circuit, the
5 Governor, the President of the Senate, and the Speaker of the
6 House of Representatives.

7 Section 47. Effective upon this act becoming a law,
8 paragraph (g) of subsection (2) of section 318.21, Florida
9 Statutes, is amended to read:

10 318.21 Disposition of civil penalties by county
11 courts.--All civil penalties received by a county court
12 pursuant to the provisions of this chapter shall be
13 distributed and paid monthly as follows:

14 (2) Of the remainder:

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

19 2. If the violation occurred within a municipality,
20 50.8 percent shall be paid to that municipality and 5.6
21 percent shall be deposited into the fine and forfeiture trust
22 fund established pursuant to s. 142.01.

23 3. If the violation occurred within the unincorporated
24 area of a county that is not within a special improvement
25 district of the Seminole Indian Tribe or Miccosukee Indian
26 Tribe or, notwithstanding subparagraph 2., if the violation
27 occurred within the unincorporated area of a municipality
28 having a consolidated government under s. 6(e), Article VIII
29 of the State Constitution, 56.4 percent shall be deposited
30 into the fine and forfeiture fund established pursuant to s.
31 142.01.

1 Section 48. Section 318.31, Florida Statutes, is
2 amended to read:

3 318.31 Objectives.--The Supreme Court is hereby
4 requested to adopt rules and procedures for the establishment
5 and operation of Civil Traffic Infraction Hearing Officer
6 Programs under ss. 318.30-318.38. ~~However, the appointment of~~
7 ~~a hearing officer shall be at the option of the county~~
8 ~~electing to establish such a program, upon recommendation by~~
9 ~~the county court judge or judges, as the case may be, and the~~
10 ~~Chief Judge of the Circuit and approval by the Chief Justice~~
11 ~~of the Supreme Court.~~

12 Section 49. Section 318.325, Florida Statutes, is
13 amended to read:

14 318.325 Jurisdiction and procedure for parking
15 infractions.--Any county or municipality may adopt an
16 ordinance that allows the county or municipality to refer
17 cases involving the violation of a county or municipal parking
18 ordinance to a hearing officer ~~funded by the county or~~
19 ~~municipality~~. Notwithstanding the provisions of ss. 318.14 and
20 775.08(3), any parking violation shall be deemed to be an
21 infraction as defined in s. 318.13(3). However, the violation
22 must be enforced and disposed of in accordance with the
23 provisions of general law applicable to parking violations and
24 with the charter or code of the county or municipality where
25 the violation occurred. The clerk of the court or the
26 designated traffic violations bureau must collect and
27 distribute the fines, forfeitures, and court costs assessed
28 under this section.

29 Section 50. Section 322.29, Florida Statutes, is
30 amended to read:

31 322.29 Surrender and return of license.--

1 (1) The department, upon suspending or revoking a
2 license, shall require that such license be surrendered to the
3 department. At the end of the period of suspension, such
4 license so surrendered shall be returned, or a duplicate
5 license issued, to the licensee after the applicant has
6 successfully passed the vision, sign, and traffic law
7 examinations. In addition, pursuant to s. 322.221, the
8 department may require the licensee to successfully complete a
9 driving examination. The department is prohibited from
10 requiring the surrender of a license except as authorized by
11 this chapter.

12 (2) The provisions of subsection (1) to the contrary
13 notwithstanding, no examination is required for the return of
14 a license suspended under s. 318.15 or s. 322.245 unless an
15 examination is otherwise required by this chapter. Every
16 person applying for the return of a license suspended under s.
17 318.15 or s. 322.245 shall present to the department
18 certification from the court that he or she has complied with
19 all obligations and penalties imposed on him or her pursuant
20 to s. 318.15 or, in the case of a suspension pursuant to s.
21 322.245, that he or she has complied with all directives of
22 the court and the requirements of s. 322.245 and shall pay to
23 the department a nonrefundable service fee of ~~\$47.50~~\$35, of
24 which ~~\$37.50~~\$25 shall be deposited into the General Revenue
25 Fund and \$10 shall be deposited into the Highway Safety
26 Operating Trust Fund. If reinstated by the clerk of the court
27 or tax collector, ~~\$37.50~~\$25 shall be retained and \$10 shall
28 be remitted to the Department of Revenue for deposit into the
29 Highway Safety Operating Trust Fund. However, the service fee
30 is not required if the person is required to pay a \$35 fee or
31 \$60 fee under the provisions of s. 322.21.

1 Section 51. Section 372.72, Florida Statutes, is
2 amended to read:

3 372.72 Disposition of fines, penalties, and
4 forfeitures.--

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

11 (2) All moneys collected from fines, penalties, or
12 forfeitures of bail of persons convicted of violations of
13 rules, regulations, or orders of the Fish and Wildlife
14 Conservation Commission concerning endangered or threatened
15 species or of violation of s. 372.662, s. 372.663, s. 372.667,
16 or s. 372.671 shall be remitted by the clerk of the court to
17 the Department of Revenue to be deposited in the Nongame
18 Wildlife Trust Fund.

19 Section 52. Subsection (8) of section 903.26, Florida
20 Statutes, is amended to read:

21 903.26 Forfeiture of the bond; when and how directed;
22 discharge; how and when made; effect of payment.--

23 (8) If the defendant is arrested and returned to the
24 county of jurisdiction of the court prior to judgment, the
25 clerk, upon affirmation by the sheriff or the chief
26 correctional officer, shall, without further order of the
27 court, discharge the forfeiture of the bond. However, if the
28 surety agent fails to pay the costs and expenses incurred in
29 returning the defendant to the county of jurisdiction, the
30 clerk shall not discharge the forfeiture of the bond. If the
31 surety agent and the sheriff ~~state attorney~~ fail to agree on

1 the amount of said costs, then the court, after notice to the
2 sheriff and the state attorney, shall determine the amount of
3 the costs.

4 Section 53. Section 903.28, Florida Statutes, is
5 amended to read:

6 903.28 Remission of forfeiture; conditions.--

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

10 (2) If the defendant surrenders or is apprehended
11 within 90 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, 100 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 (3) If the defendant surrenders or is apprehended
29 within 180 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, 95 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 (4) If the defendant surrenders or is apprehended
16 within 270 days 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, 90 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 | (5) If the defendant surrenders or is apprehended
4 | within 1 year 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, 85 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 | (6) If the defendant surrenders or is apprehended
22 | within 2 years after forfeiture, the court, on motion at a
23 | hearing upon notice having been given to the clerk of the
24 | circuit court ~~county attorney~~ and the state attorney as
25 | required in subsection (8), shall direct remission of up to,
26 | but not more than, 50 percent of a forfeiture if the surety
27 | apprehended and surrendered the defendant or if the
28 | apprehension or surrender of the defendant was substantially
29 | procured or caused by the surety, or the surety has
30 | substantially attempted to procure or cause the apprehension
31 | or surrender of the defendant, and the delay has not thwarted

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

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

10 (8) An application for remission must be accompanied
11 by affidavits setting forth the facts on which it is founded;
12 however, the surety must establish by further documentation or
13 other evidence any claimed attempt at procuring or causing the
14 apprehension or surrender of the defendant before the court
15 may order remission based upon an attempt to procure or cause
16 such apprehension or surrender. The clerk of the circuit court
17 and the state attorney must be given 20 days' notice before a
18 hearing on an application and be furnished copies of all
19 papers, applications, and affidavits. Remission shall be
20 granted on the condition of payment of costs, unless the
21 ground for remission is that there was no breach of the bond.

22 (9) The clerk of the circuit court may enter into a
23 contract with a private attorney or into an interagency
24 agreement with a governmental agency to represent the clerk of
25 the court in an action for the remission of a forfeiture under
26 this section.

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

30 Section 54. Section 916.115, Florida Statutes, is
31 amended to read:

1 916.115 Appointment of experts.--

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

5 (b) The court may appoint no more than three ~~nor fewer~~
6 ~~than two~~ experts to determine issues of the mental condition
7 of a defendant in a criminal case, including the issues of
8 competency to proceed, insanity, and involuntary
9 hospitalization or placement. An expert ~~The panel of experts~~
10 may evaluate the defendant in jail or in another appropriate
11 local facility.

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

16 (2) 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 of competence or sanity and as witnesses, ~~which~~
20 ~~shall be paid by the county in which the indictment was found~~
21 ~~or the information or affidavit was filed.~~

22 (a)1. The court shall pay for any expert that it
23 appoints by court order, upon motion of counsel for the
24 defendant or the state or upon its own motion, using funds
25 specifically appropriated on behalf of the state courts for
26 due process costs. If the defense or the state retains an
27 expert and waives the confidentiality of the expert's report,
28 the court may pay for no more than two additional experts
29 appointed by court order. If an expert appointed by the court
30 upon motion of counsel for the defendant specifically to
31 evaluate the competence of the defendant to proceed also

1 addresses in his or her evaluation issues related to sanity as
2 an affirmative defense, the court shall pay only for that
3 portion of the experts' fees relating to the evaluation on
4 competency to proceed, and the balance of the fees shall be
5 chargeable to the defense.

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

8 3. Pursuant to s. 29.005, the office of the state
9 attorney shall pay for any expert it retains. Notwithstanding
10 subparagraph 1., the office of the state attorney shall pay
11 for any expert whom it retains and whom it moves the court to
12 appoint in order to ensure that the expert has access to the
13 defendant.

14 4. An expert retained by the defendant who is
15 represented by private counsel appointed under s. 27.5303
16 shall be paid by the Justice Administrative Commission from
17 funds specifically appropriated for such expenses.

18 5. An expert retained by a defendant who is indigent
19 for costs as determined by the court and who is represented by
20 private counsel, other than private counsel appointed under s.
21 27.5303, on a fee or pro bono basis, or who is representing
22 himself or herself, shall be paid by the Justice
23 Administrative Commission from funds specifically appropriated
24 for these expenses.

25 (b) State employees shall be paid expenses pursuant to
26 s. 112.061.

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

28 (d) In order for ~~an expert the experts~~ to be paid for
29 the services rendered, the ~~expert's report reports~~ and
30 testimony must explicitly address each of the factors and
31

1 follow the procedures set out in this chapter and in the
2 Florida Rules of Criminal Procedure.

3 Section 55. Subsections (2), (3), and (4) of section
4 916.12, Florida Statutes, are amended to read:

5 916.12 Mental competence to proceed.--

6 (2) An expert ~~The experts~~ shall first determine
7 whether the person is mentally ill and, if so, consider the
8 factors related to the issue of whether the defendant meets
9 the criteria for competence to proceed; that is, whether the
10 defendant has sufficient present ability to consult with
11 counsel with a reasonable degree of rational understanding and
12 whether the defendant has a rational, as well as factual,
13 understanding of the pending proceedings. A defendant must be
14 evaluated by no fewer than two experts before the court
15 commits the defendant or takes other action authorized by this
16 chapter or the Florida Rules of Criminal Procedure, except
17 that if one expert finds that the defendant is incompetent to
18 proceed and the parties stipulate to that finding, the court
19 may commit the defendant or take other action authorized by
20 this chapter or the rules without further evaluation or
21 hearing, or the court may appoint no more than two additional
22 experts to evaluate the defendant. Notwithstanding any
23 stipulation by the state and the defendant, the court may
24 require a hearing with testimony from the expert or experts
25 before ordering the commitment of a defendant.

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

30 (a) Appreciate the charges or allegations against the
31 defendant;

1 (b) Appreciate the range and nature of possible
2 penalties, if applicable, that may be imposed in the
3 proceedings against the defendant;

4 (c) Understand the adversarial nature of the legal
5 process;

6 (d) Disclose to counsel facts pertinent to the
7 proceedings at issue;

8 (e) Manifest appropriate courtroom behavior; and

9 (f) Testify relevantly;

10
11 and include in his or her ~~their~~ report any other factor deemed
12 relevant by the expert ~~experts~~.

13 (4) If an expert finds ~~the experts should find~~ that
14 the defendant is incompetent to proceed, the expert ~~experts~~
15 shall report on any recommended treatment for the defendant to
16 attain competence to proceed. In considering the issues
17 relating to treatment, the examining expert ~~experts~~ shall
18 specifically report on:

19 (a) The mental illness causing the incompetence;

20 (b) The treatment or treatments appropriate for the
21 mental illness of the defendant and an explanation of each of
22 the possible treatment alternatives in order of choices;

23 (c) The availability of acceptable treatment and, if
24 treatment is available in the community, the expert shall so
25 state in the report; and

26 (d) The likelihood of the defendant's attaining
27 competence under the treatment recommended, an assessment of
28 the probable duration of the treatment required to restore
29 competence, and the probability that the defendant will attain
30 competence to proceed in the foreseeable future.

31

1 Section 56. Subsection (7) of section 916.301, Florida
2 Statutes, is amended to read:

3 916.301 Appointment of experts.--

4 (7) Expert witnesses appointed by the court to
5 evaluate the mental condition of a defendant in a criminal
6 case shall be allowed reasonable fees for services rendered as
7 evaluators and as witnesses, which shall be paid by the court
8 ~~county in which the indictment was found or the information or~~
9 ~~affidavit was filed.~~ State employees shall be paid expenses
10 pursuant to s. 112.061. The fees shall be taxed as costs in
11 the case. In order for the experts to be paid for the services
12 rendered, the reports and testimony must explicitly address
13 each of the factors and follow the procedures set out in this
14 chapter and in the Florida Rules of Criminal Procedure.

15 Section 57. Subsection (2) of section 938.29, Florida
16 Statutes, is amended to read:

17 938.29 Legal assistance; lien for payment of
18 attorney's fees or costs.--

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

22 1. Has received any assistance from any public
23 defender of the state, from any special assistant public
24 defender, or from any conflict attorney; or

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

29
30 Such lien constitutes a claim against the defendant-recipient
31 or parent and his or her estate, enforceable according to law.

1 (b) A judgment showing the name and residence of the
2 defendant-recipient or parent shall be recorded in the public
3 record, without cost, by filed for record in the office of the
4 clerk of the circuit court in the county where the
5 defendant-recipient or parent resides and in each county in
6 which such defendant-recipient or parent then owns or later
7 acquires any property. Such judgments shall be enforced on
8 behalf of the state by the clerk of the circuit court of the
9 county in which assistance was rendered.

10 Section 58. Section 939.06, Florida Statutes, is
11 amended to read:

12 939.06 Acquitted defendant not liable for costs.--

13 (1) A ~~No~~ defendant in a criminal prosecution who is
14 acquitted or discharged is not ~~shall be~~ liable for any costs
15 or fees of the court or any ministerial office, or for any
16 charge of subsistence while detained in custody. If the
17 defendant has ~~shall have~~ paid any taxable costs, or fees
18 required under s. 27.52(1)(b), in the case, the clerk or judge
19 shall give him or her a certificate of the payment of such
20 costs or fees, with the items thereof, which, when audited and
21 approved according to law, shall be refunded to the defendant.

22 (2) To receive a refund under this section, a
23 defendant must submit a request for the refund to the Justice
24 Administrative Commission on a form and in a manner prescribed
25 by the commission. The defendant must attach to the form an
26 order from the court demonstrating the defendant's right to
27 the refund and the amount of the refund.

28 (3) If a defendant seeking a refund under this section
29 has paid the \$40 fee required under s. 27.52(1)(b), the
30 Justice Administrative Commission shall pay the first \$40 of
31 any refund of taxable costs or fees paid by the defendant,

1 which meet the criteria of this section, using funds
2 appropriated from the Indigent Criminal Defense Trust Fund. If
3 the defendant has not paid the \$40 fee, the commission shall
4 pay the refund of any other eligible taxable costs or fees
5 paid by the defendant using funds from the applicable
6 appropriation for due-process costs related to implementation
7 of s. 14, Art. V of the State Constitution.

8 Section 59. Subsection (2) of section 985.05, Florida
9 Statutes, is amended to read:

10 985.05 Court records.--

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

1 Section 60. Paragraph (c) of subsection (4) of section
2 985.201, Florida Statutes, is amended to read:

3 985.201 Jurisdiction.--

4 (4)

5 (c) The court may retain jurisdiction over a child and
6 the child's parent or legal guardian whom the court has
7 ordered to pay restitution until the restitution order is
8 satisfied ~~or until the court orders otherwise. To retain~~
9 jurisdiction, the court must enter a restitution order, which
10 is separate from any disposition or order of commitment, on or
11 prior to the date that ~~If the court retains such jurisdiction~~
12 ~~after the date upon which~~ the court's jurisdiction would cease
13 under this section, ~~it shall do so solely for the purpose of~~
14 enforcing the restitution order. The contents of the
15 restitution order shall be limited to the child's name and
16 address; the name and address of the parent or legal guardian;
17 the name and address of the payee; the case number; the date
18 and amount of restitution ordered; any amount of restitution
19 paid; the amount of restitution due and owing; and a notation
20 that costs, interest, penalties, and attorney's fees may also
21 be due and owing. The terms of the restitution order are
22 subject to the provisions of s. 775.089(5).

23 Section 61. Section 92.152, Florida Statutes, is
24 created to read:

25 92.152 Compensation to traffic court witnesses.--Any
26 party who secures the attendance of a witness in traffic court
27 shall bear all costs of calling the witness, including witness
28 fees. If the witness is required to testify on behalf of the
29 prosecution, the office of the state attorney of the
30 respective judicial circuit shall pay the fees and costs of
31 calling the witness.

1 Section 62. Recovery of expenditures for state-funded
2 services.--The trial court administrator of each circuit shall
3 recover expenditures for state-funded services when those
4 services have been furnished to a user of the state court
5 system who possesses the present ability to pay. The rate of
6 compensation for such services shall be the actual cost of the
7 services, including the cost of recovery. The trial court
8 administrator shall deposit moneys recovered under this
9 section in the Grants and Donations Trust Fund within the
10 state court system. The trial court administrator shall
11 recover the costs of court-reporter services and
12 transcription; court-interpreter services, including
13 translation; and any other service for which state funds were
14 used to provide a product or service within the circuit. This
15 section does not authorize cost recovery from entities
16 described in ss. 29.005, 29.006, and 29.007.

17 Section 63. Subsection (4) of section 29.005, Florida
18 Statutes, is repealed.

19 Section 64. Effective July 1, 2006, section 29.014,
20 Florida Statutes, is repealed.

21 Section 65. Section 318.37, Florida Statutes, is
22 repealed.

23 Section 66. Except as otherwise expressly provided in
24 this act and except for this section, which shall take effect
25 upon becoming a law, this act shall take effect July 1, 2005.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2542

4 The committee substitute differs, in principal part, from the
5 underlying bill in that the committee substitute:

6 -- Removes provisions authorizing a local government and the
7 state attorney to negotiate a reimbursement rate, not
8 exceeding \$50 per hour, when the state attorney
9 prosecutes local ordinance violations on behalf of a
10 county or municipality. Similar authority to negotiate
11 reimbursement rates with the public defender is also
12 removed.

13 -- Provides that, for the purposes of appointing private
14 counsel to represent individuals, the appointment of an
15 attorney from the registry who is a member of a law firm
16 counts as a selection of that firm for that particular
17 rotation, and another attorney from the same firm may not
18 be appointed in the same rotation.

19 -- Provides for the expiration of the Article V Indigent
20 Services Advisory Board effective July 1, 2006.

21 -- Expands the cumulative excess of funds that the clerk of
22 the court must remit to the Department of Revenue
23 annually which is over the amount needed to meet the
24 clerk's approved budget.

25 -- Provides authority for a county and the chief judge of a
26 circuit to enter into an agreement for the county to fund
27 personnel positions for the circuit.

28 -- Removes language providing that a non-Title IV-D county
29 child support enforcement agency may not be charged for
30 court reporter or clerk services in child support
31 enforcement proceedings.

-- Provides that certain unclaimed court-related funds
collected or deposited by the clerk of the court which
remain unclaimed must be deposited into the fine and
forfeiture fund.

-- Prescribes conditions that must be met in order for a
court to retain jurisdiction over a minor and the minor's
parent in cases in which the minor is allege to have
conducted a delinquent act or violation of law and the
court has ordered restitution to the victim.