

By the Committees on Justice Appropriations; Judiciary; and  
Senators Smith and Fasano

604-2322-05

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; amending s. 28.37, F.S.; expanding  
2 the types of excess funds that clerks of the  
3 court must remit to the Department of Revenue  
4 over the amount needed to meet approved  
5 budgets; creating s. 28.44, F.S.; providing a  
6 method by which the clerk of court may  
7 discontinue or substantially modify  
8 court-related functions; providing a  
9 definition; amending s. 29.004, F.S.; providing  
10 for state appropriations to be used for expert  
11 witnesses who are appointed by the court rather  
12 than requested by any party; amending s.  
13 29.007, F.S.; providing for state funds to be  
14 used in providing mental health professionals  
15 in certain civil cases; clarifying the use of  
16 state funds at the trial or appellate level to  
17 pay certain costs on behalf of a litigant who  
18 is indigent; amending s. 29.008, F.S.;  
19 requiring that the county where the appellate  
20 district is located fund the appellate division  
21 of the public defender's office; expanding the  
22 definition of the term "facility" to include  
23 items necessary for court-reporting services;  
24 narrowing a limitation on the application of  
25 certain requirements to specified facilities;  
26 including hearing rooms within those facilities  
27 funded by the county as a court-related  
28 function; including audio equipment within  
29 county-funded communications services; creating  
30 s. 29.0081, F.S.; authorizing counties and  
31 judicial circuits to agree to the funding of

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

1 authorizing the Justice Administrative  
2 Commission to inspect certain court dockets;  
3 amending s. 39.821, F.S.; requiring that the  
4 Guardian Ad Litem Program rather than the chief  
5 judge request the federal criminal records  
6 check for purposes of certifying guardians ad  
7 litem; amending s. 39.822, F.S.; directing  
8 agencies, persons, and other organizations to  
9 provide a guardian ad litem access to certain  
10 records related to the best interests of a  
11 child; amending s. 40.29, F.S.; clarifying  
12 procedures for the payments made by the state  
13 to the clerk of the court for the costs of  
14 witnesses; creating s. 40.355, F.S.; requiring  
15 the clerk of the court to report on, and refund  
16 to the state attorneys and public defenders,  
17 certain moneys collected for payment of jurors  
18 and due-process costs; amending s. 43.16, F.S.;  
19 providing that the Justice Administrative  
20 Commission is not subject to the Administrative  
21 Procedure Act; amending s. 43.26, F.S.;  
22 prescribing responsibilities of the chief judge  
23 and the clerk of court relating to the  
24 administration of justice and provision of  
25 court-related functions; amending s. 44.102,  
26 F.S.; revising conditions under which  
27 nonvolunteer court mediators may be compensated  
28 by the county or parties; amending s. 44.108,  
29 F.S.; clarifying the fees charged for scheduled  
30 mediation services provided by a circuit  
31 court's mediation program; requiring the clerk

1 of the court to report to the chief judge the  
2 amount of such fees collected; amending s.  
3 57.081, F.S.; adding a cross-reference to  
4 conform; creating s. 57.082, F.S., relating to  
5 the determination of civil indigent status;  
6 providing for application to the clerk of court  
7 for such a determination; prescribing duties of  
8 the clerk relating to an application;  
9 prescribing application requirements and review  
10 criteria; providing for an interim  
11 determination by the court and appointment of  
12 counsel; providing for review by the court of  
13 the clerk's determination; providing for  
14 enrollment in a payment plan by a person  
15 determined indigent; providing for the waiver  
16 of fees and costs under certain conditions;  
17 providing for reevaluation of indigent status  
18 and referral to the state attorney upon  
19 evidence of financial discrepancies or fraud;  
20 providing criminal penalties for providing  
21 false information; amending s. 92.142, F.S.;  
22 deleting a provision that provides for payment  
23 of per diem and travel expenses for a witness  
24 in a criminal case at the discretion of the  
25 court; amending s. 92.231, F.S.; removing  
26 references to the Article V Indigent Services  
27 Advisory Board and the provision of  
28 recommendations on expert witness fees;  
29 amending s. 110.205, F.S.; providing that  
30 officers and employees of the Justice  
31 Administrative Commission and specified related



1 organizations are not career service positions;  
2 amending s. 116.01, F.S.; providing procedures  
3 for the clerk of the court to remit funds to  
4 the Department of Revenue; amending s. 116.21,  
5 F.S.; providing for the disposition of  
6 unclaimed moneys collected in the course of  
7 court-related activities by the clerk of the  
8 court; requiring the clerk to pay certain  
9 publication costs; amending s. 119.07, F.S.;  
10 extending the time period during which certain  
11 social security numbers and other data included  
12 in court or official county records may be  
13 available for public inspection unless  
14 redaction is requested; extending the deadline  
15 by which court clerks and county recorders must  
16 keep such data confidential; amending s.  
17 142.01, F.S.; clarifying those moneys to be  
18 included within the fine and forfeiture fund of  
19 the clerk of the circuit court; amending s.  
20 213.13, F.S.; requiring that the funds remitted  
21 by the clerk to the state be transmitted  
22 electronically within a specified period;  
23 amending s. 219.07, F.S.; clarifying the  
24 distributions that the clerk is required to  
25 make as part of his or her court-related  
26 functions; amending s. 219.075, F.S.; exempting  
27 funds collected by the clerk from the  
28 requirements for the investment of surplus  
29 funds of a county; amending s. 318.121, F.S.;  
30 clarifying that certain court costs and  
31 surcharges are added to civil traffic

1 penalties; amending s. 318.18, F.S.; requiring  
2 that the clerk of the court report the amount  
3 of certain surcharges collected to the chief  
4 judge, the Governor, and the Legislature;  
5 authorizing local governments to assess a  
6 surcharge on noncriminal offenses; amending s.  
7 318.21, F.S.; providing for the disposition of  
8 traffic-infraction penalties for violations  
9 occurring in unincorporated areas of certain  
10 municipalities having a consolidated  
11 government; amending s. 318.31, F.S.; deleting  
12 provisions concerning the appointment of a  
13 civil traffic infraction hearing officer;  
14 amending s. 318.325, F.S.; deleting provisions  
15 specifying the funding of such hearing officer;  
16 amending s. 322.29, F.S.; increasing the fees  
17 charged for reinstating a driver's license;  
18 amending s. 372.72, F.S.; requiring that the  
19 proceeds from unclaimed bonds be deposited into  
20 the clerk's fine and forfeiture fund; amending  
21 s. 903.26, F.S.; revising the procedure for  
22 determining the amount of the costs incurred in  
23 returning a defendant to the county of  
24 jurisdiction; amending s. 903.28, F.S.;  
25 revising certain notice requirements following  
26 the surrender or apprehension of a defendant  
27 for purposes of remission of a forfeiture;  
28 authorizing the clerk of the circuit court to  
29 enter into certain contracts for purposes of  
30 representation in an action for the remission  
31 of a forfeiture; providing that the clerk is

1 the real party in interest for all appeals  
2 arising from such an action; amending s.  
3 916.115, F.S.; providing requirements for the  
4 payment of experts; specifying those fees which  
5 are paid by the state, the office of the public  
6 defender, the office of the state attorney, or  
7 the Justice Administrative Commission; amending  
8 s. 916.12, F.S.; revising the procedures under  
9 which the court may take action following a  
10 finding that the defendant is incompetent to  
11 proceed; amending s. 916.301, F.S.; requiring  
12 the court to pay for certain court-appointed  
13 retardation and autism experts; amending s.  
14 939.185, F.S.; authorizing certain local  
15 governments to assess a surcharge on criminal  
16 offenses; amending s. 938.29, F.S.; providing  
17 for a judgment lien for the payment of certain  
18 attorney's fees to be filed without cost;  
19 amending s. 939.06, F.S.; clarifying that an  
20 acquitted defendant is not liable for certain  
21 fees; providing a procedure for such a  
22 defendant to request a refund from the Justice  
23 Administrative Commission of costs or fees  
24 paid; amending s. 985.05, F.S.; authorizing the  
25 Justice Administrative Commission to have  
26 access to certain court records; amending s.  
27 985.201, F.S.; revising the manner in which a  
28 court may retain jurisdiction over a child and  
29 the child's parent when the court has ordered  
30 restitution for certain delinquent acts;  
31 requiring entry of a restitution order;

1           creating s. 92.152, F.S.; requiring that the  
2           party calling a witness in traffic court bear  
3           the costs; requiring that the office of the  
4           state attorney pay such costs if the witness is  
5           required to testify on behalf of the  
6           prosecution; directing the trial court  
7           administrator to recover expenditures for  
8           state-funded services if those services were  
9           furnished to a user possessing the ability to  
10          pay; providing that the rate may not exceed the  
11          cost of the service and recovery; revising the  
12          maximum annual budget amount for the Clerk of  
13          Court for the Eleventh Judicial Circuit;  
14          providing legislative intent for revisions to  
15          ss. 34.191 and 318.21, F.S.; repealing s.  
16          29.005(4), F.S., relating to prosecution  
17          expenses for appointing mental health  
18          professionals; repealing s. 29.014, F.S.,  
19          relating to the Article V Indigent Services  
20          Advisory Board; repealing s. 318.37, F.S.,  
21          relating to funding for a Civil Traffic  
22          Infraction Hearing Officer Program; providing  
23          appropriations; providing effective dates.

24  
25       Be It Enacted by the Legislature of the State of Florida:

26  
27               Section 1. Subsections (2), (3), (5), and (7) of  
28       section 27.40, Florida Statutes, are amended to read:  
29               27.40 Court-appointed counsel; circuit registries;  
30       minimum requirements; appointment by court.--  
31

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

6           (3) In utilizing a registry:

7           (a) Each circuit Article V indigent services committee  
8 shall compile and maintain a list of attorneys in private  
9 practice; ~~by county~~ by race, sex, and ethnicity of the  
10 assigned attorneys; and by category of cases. To be included  
11 on a registry, attorneys shall certify that they meet any  
12 minimum requirements established in general law for court  
13 appointment, are available to represent indigent defendants in  
14 cases requiring court appointment of private counsel, and are  
15 willing to abide by the terms of the contract for services. To  
16 be included on a registry, an attorney also must enter into a  
17 contract for services with the Justice Administrative  
18 Commission. Failure to comply with the terms of the contract  
19 for services may result in termination of the contract and  
20 removal from the registry. Each attorney on the registry shall  
21 be responsible for notifying the circuit Article V indigent  
22 services committee and the Justice Administrative Commission  
23 of any change in his or her status. Failure to comply with  
24 this requirement shall be cause for termination of the  
25 contract for services and removal from the registry until the  
26 requirement is fulfilled.

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

1 appears on the list shall remain next in order. The  
2 appointment of an attorney who is part of a law firm that  
3 includes other attorneys on the registry shall count as  
4 selection of the firm for that particular rotation, and  
5 another attorney on the registry from that same law firm may  
6 not be appointed in the same rotation. An attorney who is  
7 appointed may not share duties related to the appointment with  
8 an attorney in his or her law firm unless the attorney sharing  
9 in the duties is also on the registry.

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

18 (d) Quarterly, ~~beginning no later than October 1,~~  
19 ~~2004,~~ each circuit Article V indigent services committee shall  
20 provide a current copy of each registry to the Chief Justice  
21 of the Supreme Court, the chief judge, the state attorney and  
22 public defender in each judicial circuit, ~~and~~ the clerk of  
23 court in each county, the Justice Administrative Commission,  
24 and the Indigent Services Advisory Board with a current copy  
25 of each registry. The copy of a registry shall identify the  
26 race, sex, and ethnicity of each attorney listed in the  
27 registry.

28 (5) The Justice Administrative Commission shall  
29 approve uniform contract forms for use in procuring the  
30 services of private court-appointed counsel and uniform  
31 procedures and forms for use by a court-appointed attorney in

1 support of billing for attorney's fees, costs, and related  
2 expenses to demonstrate the attorney's completion of specified  
3 duties.

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

23 (b) The attorney shall maintain appropriate  
24 documentation, including a current and detailed hourly  
25 accounting of time spent representing the defendant or other  
26 client. These records and documents are subject to review by  
27 the Justice Administrative Commission.

28 Section 2. Section 27.42, Florida Statutes, is amended  
29 to read:

30 27.42 Circuit Article V indigent services committees;  
31 composition; staff; responsibilities; funding.--

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

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

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

8           (c) One experienced private criminal defense attorney  
9 appointed by the chief judge to serve a 2-year term. During  
10 the 2-year term, the attorney is prohibited from serving as  
11 court-appointed counsel.

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

16           (2)(a) The responsibility of the circuit Article V  
17 indigent services committee is to manage the appointment and  
18 compensation of court-appointed counsel within a circuit  
19 pursuant to ss. 27.40 and 27.5303. The committee shall also  
20 set the compensation rates of due-process service providers in  
21 cases where the court has appointed counsel or declared a  
22 person indigent for costs, not to exceed any rates specified  
23 in the General Appropriations Act such that the total amount  
24 expended does not exceed the amount budgeted in the General  
25 Appropriations Act for the particular due-process service. The  
26 circuit Article V indigent services committee shall meet at  
27 least quarterly.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

7 Section 3. Section 27.52, Florida Statutes, is amended  
8 to read:

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

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

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

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

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

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

1           4. All liabilities and debts.

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

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

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

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

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

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

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

1 clerk may retain 2 percent of application fees collected  
2 monthly for administrative costs prior to remitting the  
3 remainder to the Department of Revenue.

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

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

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

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

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

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

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

12 1. The applicant is not indigent.

13 2. The applicant is indigent.

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

18 2. If the public defender is unable to provide  
19 representation due to a conflict under s. 27.5303, the public  
20 defender shall motion the court for withdrawal from  
21 representation and appointment of private counsel.

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

31

1           (e) The applicant may seek review of the clerk's  
2 determination that the applicant is not indigent in the court  
3 having jurisdiction over the matter at the next scheduled  
4 hearing. If the applicant seeks review of the clerk's  
5 determination of indigent status, the court shall make a final  
6 determination as provided in subsection (4).

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

14           (4) REVIEW OF 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 the applicant has been released on bail in  
23 an amount of \$5,000 or more.

24           2. Whether a bond has been posted, the type of bond,  
25 and who paid the bond.

26           3. Whether paying for private counsel or other due  
27 process services creates a substantial hardship for the  
28 applicant or the applicant's family.

29           4. Any other relevant financial circumstances of the  
30 applicant or the applicant's family.

31

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

4           1. The applicant is not indigent.

5           2. The applicant is indigent.

6           (5) INDIGENT FOR COSTS.--A person who is eligible to  
7 be represented by a public defender under s. 27.51 but who is  
8 represented by private counsel not appointed by the court for  
9 a reasonable fee, as approved by the court, or on a pro bono  
10 basis, or who is proceeding pro se, may motion the court for a  
11 determination that he or she is indigent for costs and  
12 eligible for the provision of due-process services, as  
13 prescribed by s. 29.006 and s. 29.007, funded by the state.

14           (a) The person must submit to the court:

15           1. The completed application prescribed in subsection  
16 (1); and

17           2. In the case of a person represented by counsel, an  
18 affidavit attesting to the estimated amount of attorney's fees  
19 and the source of payment for these fees.

20           (b) In reviewing the motion, the court shall consider:

21           1. Whether the applicant applied for a determination  
22 of indigent status under subsection (1) and the outcome of  
23 such application;

24           2. The extent to which the person's income equals or  
25 exceeds the income criteria prescribed in subsection (2);

26           3. The additional factors prescribed in subsection  
27 (4);

28           4. Whether the applicant is proceeding pro se or is  
29 represented by a private attorney for a fee or on a pro bono  
30 basis;

31           5. When the applicant retained private counsel; and



1           6. The amount of any attorney's fees and who is paying  
2 the fees.

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

5           1. The applicant is not indigent for costs.

6           2. The applicant is indigent for costs.

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

17           (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent  
18 parent or legal guardian of an applicant who is a minor or an  
19 adult tax-dependent person shall furnish the minor or adult  
20 tax-dependent person with the necessary legal services and  
21 costs incident to a delinquency proceeding or, upon transfer  
22 of such person for criminal prosecution as an adult pursuant  
23 to chapter 985, a criminal prosecution in which the person has  
24 a right to legal counsel under the Constitution of the United  
25 States or the Constitution of the State of Florida. The  
26 failure of a parent or legal guardian to furnish legal  
27 services and costs under this section does not bar the  
28 appointment of legal counsel pursuant to this section, s.  
29 27.40, or s. 27.5303. When the public defender, a private  
30 court-appointed conflict counsel, or a private attorney is  
31 appointed to represent a minor or an adult tax-dependent

1 person in any proceeding in circuit court or in a criminal  
2 proceeding in any other court, the parents or the legal  
3 guardian shall be liable for payment of the fees, charges, and  
4 costs of the representation even if the person is a minor  
5 being tried as an adult. Liability for the fees, charges, and  
6 costs of the representation shall be imposed in the form of a  
7 lien against the property of the nonindigent parents or legal  
8 guardian of the minor or adult tax-dependent person. The lien  
9 is enforceable as provided in s. 27.561 or s. 938.29.

10 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE  
11 INFORMATION.--

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

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

1 Grants and Donations Trust Fund within the Justice  
2 Administrative Commission for appropriation by the Legislature  
3 to the state attorney. Seventy-five percent of any amount  
4 recovered shall be remitted to the Department of Revenue for  
5 deposit into the General Revenue Fund.

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

11 Section 4. Subsections (1), (2), (4), and (6) of  
12 section 27.5304, Florida Statutes, are amended, and  
13 subsections (7), (8), and (9) are added to that section, to  
14 read:

15 27.5304 Private court-appointed counsel;  
16 compensation.--

17 (1) Private court-appointed counsel shall be  
18 compensated by the Justice Administrative Commission in an  
19 amount not to exceed the fee limits established in this  
20 section. The attorney also shall be reimbursed for reasonable  
21 and necessary expenses in accordance with s. 29.007. If the  
22 attorney is representing a defendant charged with more than  
23 one offense in the same case, the attorney shall be  
24 compensated at the rate provided for the most serious offense  
25 for which he or she represented the defendant. This section  
26 does not allow stacking of the fee limits established by this  
27 section. Court-appointed counsel providing representation  
28 under an alternate model shall enter into the uniform contract  
29 with the Justice Administrative Commission and shall use the  
30 Justice Administrative Commission's uniform procedures and  
31 forms in support of billing for attorney's fees, costs, and

1 related expenses. Failure to comply with the terms of the  
2 contract for services may result in termination of the  
3 contract.

4 (2) The Justice Administrative Commission shall review  
5 an intended billing by private court-appointed counsel for  
6 attorney's fees based on a flat fee per case for completeness  
7 and compliance with contractual, statutory, and circuit  
8 Article V indigent services committee requirements. The  
9 commission may approve the intended billing for flat fee  
10 payment without approval by the court if the intended billing  
11 is correct. For all other intended billings, prior to filing a  
12 motion for an order approving payment of attorney's fees,  
13 costs, or related expenses, the private court-appointed  
14 counsel shall deliver a copy of the intended billing, together  
15 with supporting affidavits and all other necessary  
16 documentation, to the Justice Administrative Commission. The  
17 Justice Administrative Commission shall review the billings,  
18 affidavit, and documentation for completeness and compliance  
19 with contractual and statutory requirements. If the Justice  
20 Administrative Commission objects to any portion of the  
21 proposed billing, the objection and reasons therefor shall be  
22 communicated to the private court-appointed counsel. The  
23 private court-appointed counsel may thereafter file his or her  
24 motion for order approving payment of attorney's fees, costs,  
25 or related expenses together with supporting affidavits and  
26 all other necessary documentation. The motion must specify  
27 whether the Justice Administrative Commission objects to any  
28 portion of the billing or the sufficiency of documentation  
29 and, if so, the counsel must attach to the motion the letter  
30 from the commission stating its objections ~~the reasons~~  
31 ~~therefor~~. A copy of the motion and attachments shall be served

1 | on the Justice Administrative Commission at least 5 business  
2 | days prior to the date of a hearing. The Justice  
3 | Administrative Commission shall have standing to appear before  
4 | the court to contest any motion for order approving payment of  
5 | attorney's fees, costs, or related expenses and may, unless  
6 | otherwise ordered by the court, participate in a hearing on  
7 | the motion by use of telephonic or other communication  
8 | equipment. The Justice Administrative Commission may contract  
9 | with other public or private entities or individuals to appear  
10 | before the court for the purpose of contesting any motion for  
11 | order approving payment of attorney's fees, costs, or related  
12 | expenses. The fact that the Justice Administrative Commission  
13 | has not objected to any portion of the billing or to the  
14 | sufficiency of the documentation is not binding on the court.  
15 | The court retains primary authority and responsibility for  
16 | determining the reasonableness of all billings for attorney's  
17 | fees, costs, and related expenses, subject to statutory  
18 | limitations. Private court-appointed counsel is entitled to  
19 | compensation upon final disposition of a case, except as  
20 | provided in subsections (7) and (8). Before final disposition  
21 | of a case, a private court-appointed counsel may file a motion  
22 | for fees, costs, and related expenses for services completed  
23 | up to the date of the motion in any case or matter in which  
24 | legal services have been provided by the attorney for more  
25 | than 1 year. The amount approved by the court may not exceed  
26 | 80 percent of the fees earned, or costs and related expenses  
27 | incurred, to date, or an amount proportionate to the maximum  
28 | fees permitted under this section based on legal services  
29 | provided to date, whichever is less. The court may grant the  
30 | motion if counsel shows that failure to grant the motion would  
31 | work a particular hardship upon counsel.

1 (4) By January 1 of each year, the Article V Indigent  
2 Services Advisory Board shall recommend to the Legislature any  
3 adjustments to the compensation provisions of this section.

4 This subsection expires on July 1, 2006.

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

11 (7) Private court-appointed counsel representing a  
12 parent in a dependency case that is open may submit a request  
13 for payment to the Justice Administrative Commission at the  
14 following intervals:

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

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

18 and

19 3. Following a judicial review hearing.

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

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

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

31

1           2. When the opinion of the appellate court is  
2 finalized.

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

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

12           27.54 Limitation on payment of expenditures for public  
13 defender's office other than by the state.--

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

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

14 (a) A contract for reimbursement on an hourly basis  
15 shall require a county or municipality to reimburse the public  
16 defender for services rendered at a rate of \$50 per hour. If  
17 an hourly rate is specified in the General Appropriations Act,  
18 that rate shall control.

19 (b) A contract for assigning one or more full-time  
20 equivalent attorney positions to perform work on behalf of the  
21 county or municipality shall assign one or more full-time  
22 equivalent positions based on estimates by the public defender  
23 of the number of hours required to handle the projected  
24 workload. The full cost of each full-time equivalent attorney  
25 position on an annual basis shall be \$50, or the amount  
26 specified in the General Appropriations Act, multiplied by the  
27 legislative budget request standard for available work hours  
28 for one full-time equivalent attorney position, or, in the  
29 absence of that standard, 1,854 hours. The contract may  
30 provide for funding full-time equivalent positions in  
31 one-quarter increments.



1 (c) Any payments received under ~~pursuant to~~ this  
2 subsection shall be deposited into the Grants and Donations  
3 Trust Fund within the Justice Administrative Commission for  
4 appropriation by the Legislature.

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

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

25  
26 Charges

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

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

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

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

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

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

1 before January 1, 2006; \$1.90 shall be retained by the clerk  
2 to be deposited in the Public Records Modernization Trust Fund  
3 and used exclusively for funding court-related technology  
4 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);  
5 and \$2 shall be distributed to the board of county  
6 commissioners to be used exclusively to fund court-related  
7 technology, and court technology needs as defined in s.  
8 29.008(1)(f)2. and (h) for the state trial courts, state  
9 attorney, and public defender in that county. If the counties  
10 maintain legal responsibility for the costs of the  
11 court-related technology needs as defined in s. 29.008(1)(f)2.  
12 and (h), notwithstanding any other provision of law, the  
13 county is not required to provide additional funding beyond  
14 that provided herein for the court-related technology needs of  
15 the clerk as defined in s. 29.008(1)(f)2. and (h). All court  
16 records ~~and official records~~ are the property of the State of  
17 Florida, including any records generated as part of the  
18 Comprehensive Case Information System funded pursuant to this  
19 paragraph and the clerk of court is designated as the  
20 custodian of such records. All official records, as defined in  
21 s. 28.001, are the property of the county, and the clerk or  
22 comptroller, or the county office other than the clerk or  
23 comptroller who has the duty of maintaining official records,  
24 is designated the custodian of the official records. The clerk  
25 of court or any entity acting on behalf of the clerk of court,  
26 including an association, shall not charge a fee to any agency  
27 as defined in s. 119.011, the Legislature, or the State Court  
28 System for copies of records generated by the Comprehensive  
29 Case Information System or held by the clerk of court or any  
30 entity acting on behalf of the clerk of court, including an  
31 association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 28.241 Filing fees for trial and appellate  
13 proceedings.--

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

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



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

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

11 Section 9. Section 28.245, Florida Statutes, is  
12 amended to read:

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

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

29 28.246 Payment of court-related fees, charges, and  
30 costs; partial payments; distribution of funds.--  
31

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

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

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

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

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

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

1           (4) The clerk of the circuit court shall accept  
2 partial payments for court-related fees, service charges,  
3 costs, and fines in accordance with the terms of an  
4 established payment plan. An individual seeking to defer  
5 payment of fees, service charges, costs, or fines imposed by  
6 operation of law or order of the court under any provision of  
7 general law shall apply to the clerk for enrollment in a  
8 payment plan. The clerk shall enter into a payment plan with  
9 an individual who the court determines is indigent for costs.  
10 A monthly payment amount, calculated based upon all fees and  
11 all anticipated costs, is presumed to correspond to the  
12 person's ability to pay if it does not exceed 2 percent of the  
13 person's annual net income, as defined in s. 27.52(1), divided  
14 by 12. The court may review the reasonableness of the payment  
15 plan, and determined by the court to be unable to make payment  
16 in full, shall be enrolled by the clerk in a payment program,  
17 with periodic payment amounts corresponding to the  
18 individual's ability to pay.

19           Section 11. Section 28.345, Florida Statutes, is  
20 amended to read:

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

30           Section 12. Paragraph (a) of subsection (3) of section  
31 28.35, Florida Statutes, is amended to read:

1           28.35 Florida Clerks of Court Operations

2 Corporation.--

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

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

24           28.36 Budget procedure.--There is hereby established a  
25 budget procedure for the court-related functions of the clerks  
26 of the court.

27           (3) Each proposed budget shall further conform to the  
28 following requirements:

29           (a) On or before August 15 ~~±~~ for each fiscal year  
30 thereafter, the proposed budget shall be prepared, summarized,  
31 and submitted by the clerk in each county to the Clerks of

1 Court Operations Corporation in the manner and form prescribed  
2 by the corporation ~~conference~~. The proposed budget must  
3 provide detailed information on the anticipated revenues  
4 available and expenditures necessary for the performance of  
5 the standard list of court-related functions of the clerk's  
6 office developed pursuant to s. 28.35(4)(a) for the county  
7 fiscal year beginning the following October 1.

8 (4) If a clerk of the court estimates that available  
9 funds plus projected revenues from fines, fees, service  
10 charges, and costs for court-related services are insufficient  
11 to meet the anticipated expenditures for the standard list of  
12 court-related functions in s. 28.35(4)(a) performed by his or  
13 her office, the clerk must report the revenue deficit to the  
14 Clerks of Court Operations Corporation in the manner and form  
15 prescribed by the corporation pursuant to contract with the  
16 Chief Financial Officer. The corporation shall verify that the  
17 proposed budget is limited to the standard list of  
18 court-related functions in s. 28.35(4)(a).

19 (b) If the Chief Financial Officer, after reviewing a  
20 clerk's approved court-related budget, ~~Department of Revenue~~  
21 ~~finds that the court-related budget proposed by a clerk~~  
22 includes functions not included in the standard list of  
23 court-related functions in s. 28.35(4)(a) ~~s. 28.35(3)(a)~~, the  
24 Chief Financial Officer ~~department~~ shall notify the clerk of  
25 the amount of the proposed budget not eligible to be funded  
26 from fees, service charges, costs, and fines for court-related  
27 functions, and shall identify appropriate corrective measures  
28 to assure budget integrity. The clerk shall then immediately  
29 discontinue all ineligible ~~the~~ expenditures of court-related  
30 funds for this purpose and reimburse the Clerks of the Court  
31 Trust Fund for any previous ineligible expenditures made for

1 noncourt-related functions, and shall implement any corrective  
2 actions identified by the Chief Financial Officer ~~incurred to~~  
3 ~~date for these functions.~~

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

11 (a) The additional funding is reasonable and necessary  
12 to pay the cost of performing new or additional functions  
13 required by changes in law or court rule. To determine the  
14 necessary additional functions, the Clerk of Court Corporation  
15 must propose to the Department of Financial Services a  
16 methodology to determine any increases. The Department of  
17 Financial Services shall review and approve any such  
18 methodology before the Clerk of Court Corporation may use it  
19 to approve an increase in the maximum annual budget for any  
20 clerk of court.

21 (b) The additional funding is reasonable and necessary  
22 to pay the additional costs required for the clerk to support  
23 increases in the number of judges or magistrates authorized by  
24 the Legislature. To determine the necessary additional  
25 funding, the Clerk of Court Corporation must propose a  
26 staffing model, including the number of new staff, the cost of  
27 such staff, and the expenses for each new judge or magistrate.  
28 The Department of Financial Services shall review and approve  
29 any such staffing model before it may be used to approve an  
30 increase in the maximum annual budget for any clerk of court.

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

3           28.37 Fines, fees, service charges, and costs remitted  
4 to the state.--

5           (4) Beginning January 1, 2005, for the period July 1,  
6 2004, through September 30, 2004, and each January 1  
7 thereafter for the preceding county fiscal year of October 1  
8 through September 30, the clerk of the court must remit to the  
9 Department of Revenue for deposit in the General Revenue Fund  
10 the cumulative excess of all fees, service charges, court  
11 costs, and fines retained by the clerks of the court, plus any  
12 funds received by the clerks of the court from the Department  
13 of Revenue's Clerk of the Court Trust Fund under s.  
14 28.36(4)(a), over the amount needed to meet the approved  
15 budget amounts established under s. 28.36.

16           Section 15. Section 28.44, Florida Statutes, is  
17 created to read:

18           28.44 Clerk discontinuance of court-related  
19 functions.--

20           (1) A function of the clerk of court being performed  
21 in support of the trial courts by the individual clerks of  
22 court on July 1, 2004, may not be discontinued or  
23 substantially modified on a unilateral basis except pursuant  
24 to this section. A clerk of court may discontinue performing a  
25 function performed in support of the trial court only if:

26           (a) The chief judge of the circuit has consented in  
27 writing to the discontinuance or substantial modification of  
28 the function performed in support of the trial court; or

29           (b) The clerk of court has given written notice of the  
30 intention to substantially modify or discontinue a function  
31 performed in support of the trial court at least 1 year before

1 the effective date of the discontinuance or substantial  
2 modification of the function.

3 (2) "Substantial modification" of a function performed  
4 in support of the trial court means a modification which has  
5 the effect of reducing the level of services provided to the  
6 trial court.

7 Section 16. Subsection (6) of section 29.004, Florida  
8 Statutes, is amended to read:

9 29.004 State courts system.--For purposes of  
10 implementing s. 14, Art. V of the State Constitution, the  
11 elements of the state courts system to be provided from state  
12 revenues appropriated by general law are as follows:

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

16 Section 17. Section 29.007, Florida Statutes, is  
17 amended to read:

18 29.007 Court-appointed counsel.--For purposes of  
19 implementing s. 14, Art. V of the State Constitution, the  
20 elements of court-appointed counsel to be provided from state  
21 revenues appropriated by general law are as follows:

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

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

30 (3) Reasonable court reporting and transcription  
31 services necessary to meet constitutional or statutory



1 requirements, including the cost of transcribing and copying  
2 depositions of witnesses and the cost of foreign language and  
3 sign-language interpreters and translators.

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

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

16 (6) Reasonable pretrial consultation fees and costs.

17 (7) Travel expenses reimbursable under s. 112.061  
18 reasonably necessary in the performance of constitutional and  
19 statutory responsibilities.

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

1 case in which a private attorney represents a person  
2 determined by the court to be indigent for costs, the attorney  
3 shall execute the commission's contract for private attorneys  
4 representing persons who are indigent for costs.

5 Section 18. Subsection (1) of section 29.008, Florida  
6 Statutes, is amended to read:

7 29.008 County funding of court-related functions.--

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

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

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

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

27 2. Equipment and furnishings under this paragraph in  
28 existence and owned by counties on July 1, 2005, except for  
29 that in the possession of the clerks, for areas other than  
30 courtrooms, hearing rooms, jury facilities, and other public  
31 areas in courthouses and any other facility occupied by the

1 courts, state attorneys, and public defenders, shall be  
2 transferred to the state at no charge. This provision does not  
3 apply to any communication services as defined in paragraph  
4 (f).

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

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

25 (d) "Utilities" means all electricity services for  
26 light, heat, and power; natural or manufactured gas services  
27 for light, heat, and power; water and wastewater services and  
28 systems, stormwater or runoff services and systems, sewer  
29 services and systems, all costs or fees associated with these  
30 services and systems, and any costs or fees associated with  
31

1 the mitigation of environmental impacts directly related to  
2 the facility.

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

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

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

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

28           3. Courier messenger and subpoena services.

29           4. Auxiliary aids and services for qualified  
30 individuals with a disability which are necessary to ensure  
31 access to the courts. Such auxiliary aids and services

1 include, but are not limited to, sign language interpretation  
2 services required under the federal Americans with  
3 Disabilities Act other than services required to satisfy due  
4 process requirements and identified as a state funding  
5 responsibility pursuant to ss. 29.004, 29.005, 29.006, and  
6 29.007, real-time transcription services for individuals who  
7 are hearing impaired, and assistive listening devices and the  
8 equipment necessary to implement such accommodations.

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

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

1 reporting of information to the state. The counties shall also  
2 provide additional information technology services, hardware,  
3 and software as needed for new judges and staff of the state  
4 courts system, state attorneys' offices, public defenders'  
5 offices, and the offices of the clerks of the circuit and  
6 county courts performing court-related functions.

7 Section 19. Section 29.0081, Florida Statutes, is  
8 created to read:

9 29.0081 County funding of additional court  
10 personnel.--

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

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

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

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

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

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

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



1           Section 20. Subsection (2) of section 29.015, Florida  
2 Statutes, is amended to read:

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

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

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

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

1 purpose are available in a different budget entity, the  
2 Justice Administrative Commission shall request a budget  
3 amendment pursuant to chapter 216 ~~request a budget amendment~~  
4 ~~to transfer funds from the office or offices to alleviate the~~  
5 ~~deficit upon agreement of the contributing office or offices.~~

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

17 Section 21. Section 29.018, Florida Statutes, is  
18 amended to read:

19 29.018 Cost sharing of due-process ~~due process~~ costs;  
20 legislative intent.--It is the intent of the Legislature to  
21 provide state-funded due-process ~~due process~~ services to the  
22 state courts system, state attorneys, public defenders, and  
23 court-appointed counsel in the most cost-effective and  
24 efficient manner. The state courts system, state attorneys,  
25 public defenders, and the Justice Administrative Commission on  
26 behalf of court-appointed counsel may enter into contractual  
27 agreements to share, on a pro rata basis, the costs associated  
28 with court reporting services, court interpreter and  
29 translation services, court experts, and all other due-process  
30 ~~due process~~ services funded by the state pursuant to this  
31

1 chapter. These costs shall be budgeted within the funds  
2 appropriated to each of the affected users of services.

3 Section 22. Section 29.0185, Florida Statutes, is  
4 created to read:

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

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

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

15 Section 23. Subsection (1) of section 34.045, Florida  
16 Statutes, is amended to read:

17 34.045 Cost recovery; use of the county court for  
18 ordinance or special law violations.--

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

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

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

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

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

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

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

27           34.191 Fines and forfeitures; dispositions.--

28           (1) All fines and forfeitures arising from offenses  
29 tried in the county court shall be collected and accounted for  
30 by the clerk of the court and, other than the charge provided  
31 in s. 318.1215, disbursed in accordance with ss. 28.2402,

1 34.045, 142.01, and 142.03 ~~142.13~~ and subject to the  
2 provisions of s. 28.246(5) and (6). Notwithstanding the  
3 provisions of this section, all fines and forfeitures arising  
4 from operation of the provisions of s. 318.1215 shall be  
5 disbursed in accordance with that section.

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

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

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

24 Section 25. Subsection (3) of section 39.0132, Florida  
25 Statutes, is amended to read:

26 39.0132 Oaths, records, and confidential  
27 information.--

28 (3) The clerk shall keep all court records required by  
29 this chapter separate from other records of the circuit court.  
30 All court records required by this chapter shall not be open  
31 to inspection by the public. All records shall be inspected

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

18 Section 26. Subsection (1) of section 39.821, Florida  
19 Statutes, is amended to read:

20 39.821 Qualifications of guardians ad litem.--

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

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

30 Section 27. Section 39.822, Florida Statutes, is  
31 amended to read:

1           39.822 Appointment of guardian ad litem for abused,  
2 abandoned, or neglected child.--

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

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

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

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

29           (b) A person or organization, other than an agency  
30 under paragraph (a), shall allow the guardian ad litem to  
31 inspect and copy any records related to the best interests of



1 the child who is the subject of the appointment, including,  
2 but not limited to, confidential records.

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

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

16       Section 28. Subsection (1) of section 40.29, Florida  
17 Statutes, is amended to read:

18       40.29 Payment of due process costs.--

19       (1)(a) Each clerk of the circuit court, on behalf of  
20 the courts, the state attorney, ~~and~~ the public defender, and  
21 court-appointed counsel, shall forward to the Justice  
22 Administrative Commission, by county, a quarterly estimate of  
23 funds necessary to pay for ordinary witnesses, including, but  
24 not limited to, witnesses in civil traffic cases and witnesses  
25 of the state attorney, public defender, court-appointed  
26 counsel, and persons determined to be indigent for costs  
27 ~~except expert witnesses paid pursuant to a contract or other~~  
28 ~~professional services agreement, pursuant to ss. 29.005 and~~  
29 ~~29.006. Each quarter of the state fiscal year, the commission,~~  
30 based upon the estimates, shall advance funds to each clerk to  
31

1 pay for these ordinary witnesses from state funds specifically  
2 appropriated for the payment of ordinary witnesses.

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

7 Section 29. Section 40.355, Florida Statutes, is  
8 created to read:

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

15 Section 30. Subsections (5) and (6) of section 43.16,  
16 Florida Statutes, are amended, and subsection (7) is added to  
17 that section, to read:

18 43.16 Justice Administrative Commission; membership,  
19 powers and duties.--

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

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

28 (b) Each state attorney and public defender and the  
29 guardian ad litem program ~~Judicial Qualifications Commission~~  
30 shall continue to prepare necessary budgets, vouchers which  
31 represent valid claims for reimbursement by the state for

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

11 (6) The provisions contained in this section shall be  
12 supplemental to those of chapter 27, relating to state  
13 attorneys and public defenders; to those of chapter 39 s-  
14 ~~43.20~~, relating to the guardian ad litem program ~~Judicial~~  
15 ~~Qualifications Commission~~; or to other laws pertaining hereto.

16 (7) Chapter 120 does not apply to the Justice  
17 Administrative Commission.

18 Section 31. Subsection (6) is added to section 43.26,  
19 Florida Statutes, to read:

20 43.26 Chief judge of circuit; selection; powers.--

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

31

1 of such services in a method or manner that is consistent with  
2 statute, court rule, or administrative order.

3 Section 32. Paragraph (b) of subsection (4) of section  
4 44.102, Florida Statutes, is amended to read:

5 44.102 Court-ordered mediation.--

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

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

18 Section 33. Section 44.108, Florida Statutes, is  
19 amended to read:

20 44.108 Funding of mediation and arbitration.--

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

29 (2) When court-ordered mediation services are provided  
30 by a circuit court's mediation program, the following fees,  
31

1 unless otherwise established in the General Appropriations  
2 Act, shall be collected by the clerk of court:

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

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

9 (c) Forty dollars per person per scheduled session in  
10 county court cases.

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

24 Section 34. Subsection (1) of section 57.081, Florida  
25 Statutes, is amended to read:

26 57.081 Costs; right to proceed where prepayment of  
27 costs waived.--

28 (1) Any indigent person, except a prisoner as defined  
29 in s. 57.085, who is a party or intervenor in any judicial or  
30 administrative agency proceeding or who initiates such  
31 proceeding shall receive the services of the courts, sheriffs,

1 and clerks, with respect to such proceedings, despite his or  
2 her present inability to pay for these services. Such services  
3 are limited to filing fees; service of process; certified  
4 copies of orders or final judgments; a single photocopy of any  
5 court pleading, record, or instrument filed with the clerk;  
6 examining fees; mediation services and fees; private  
7 court-appointed counsel fees; subpoena fees and services;  
8 service charges for collecting and disbursing funds; and any  
9 other cost or service arising out of pending litigation. In  
10 any appeal from an administrative agency decision, for which  
11 the clerk is responsible for preparing the transcript, the  
12 clerk shall record the cost of preparing the transcripts and  
13 the cost for copies of any exhibits in the record. Prepayment  
14 of costs to any court, clerk, or sheriff is not required in  
15 any action if the party has obtained in each proceeding a  
16 certification of indigence in accordance with s. 27.52 or s.  
17 57.082.

18 Section 35. Section 57.082, Florida Statutes, is  
19 created to read:

20 57.082 Determination of civil indigent status.--

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

29 (a) The application must include, at a minimum, the  
30 following financial information:

31

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

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

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

13           4. All liabilities and debts.

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

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

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

30           (2) DETERMINATION BY THE CLERK.--The clerk of the  
31 court shall determine whether an applicant seeking such

1 designation is indigent based upon the information provided in  
2 the application and the criteria prescribed in this  
3 subsection.

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

10 2. There is a presumption that the applicant is not  
11 indigent if the applicant owns, has equity in, or has the  
12 expectancy of any interest in any intangible or tangible  
13 personal property or real property having a net equity value  
14 of \$2,500 or more, excluding the value of the person's  
15 homestead and one vehicle having a net value not exceeding  
16 \$5,000.

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

19 1. The applicant is not indigent.

20 2. The applicant is indigent.

21 (c) If the clerk determines that the applicant is  
22 indigent, the clerk shall immediately file the determination  
23 in the case record.

24 (d) The duty of the clerk in determining whether an  
25 applicant is indigent is limited to receiving the application  
26 and comparing the information provided in the application to  
27 the criteria prescribed in this subsection. The determination  
28 of indigent status is a ministerial act of the clerk and may  
29 not be based on further investigation or the exercise of  
30 independent judgment by the clerk. The clerk may contract with  
31



1 third parties to perform functions assigned to the clerk under  
2 this section.

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

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

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

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

26 1. Whether paying for private counsel or other fees  
27 and costs creates a substantial hardship for the applicant or  
28 the applicant's family.

29 2. Whether the applicant is proceeding pro se or is  
30 represented by a private attorney for a fee or on a pro-bono  
31 basis.

- 1           3. When the applicant retained private counsel.
- 2           4. The amount of any attorney's fees and who is paying  
3 the fees.
- 4           5. Any other relevant financial circumstances of the  
5 applicant or the applicant's family.
- 6           (b) Based upon its review, the court shall make one of  
7 the following determinations and shall, if appropriate,  
8 appoint private counsel:
- 9           1. The applicant is not indigent.
- 10           2. The applicant is indigent.
- 11           (5) PROCESSING CHARGE; PAYMENT PLANS.--
- 12           (a) A person who the clerk or the court determines is  
13 indigent for civil proceedings under this section shall, upon  
14 the request of the party, be enrolled in a payment plan under  
15 s. 28.246 and shall be charged an administrative fee under s.  
16 28.24(26)(b) and (c). A monthly payment amount, calculated  
17 based upon all fees and all anticipated costs, is presumed to  
18 correspond to the person's ability to pay if it does not  
19 exceed 2 percent of the person's annual net income, as defined  
20 in subsection (1), divided by 12. The person may seek review  
21 of the clerk's decisions regarding a payment plan established  
22 under s. 28.246 in the court having jurisdiction over the  
23 matter. A case may not be impeded in any way, delayed in  
24 filing, or delayed in its progress, including the final  
25 hearing and order, due to nonpayment of any fees by an  
26 indigent person.
- 27           (b) Notwithstanding paragraph (a), a person who the  
28 clerk or the court determines is indigent is entitled to the  
29 waiver of all costs for the services listed in s. 57.081 if  
30 that person's income is equal to or below 150 percent of the  
31 then-current federal poverty guidelines prescribed for the

1 size of the household of the applicant by the United States  
2 Department of Health and Human Services or if the person is  
3 receiving Temporary Assistance for Needy Families-Cash  
4 Assistance, poverty-related veterans' benefits, or  
5 Supplemental Security Income (SSI).

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

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

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

29 (c) A person who knowingly provides false information  
30 to the clerk or the court in seeking a determination of  
31 indigent status under this section commits a misdemeanor of

1 the first degree, punishable as provided in s. 775.082 or s.  
2 775.083.

3           Section 36. Subsection (1) of section 92.142, Florida  
4 Statutes, is amended to read:

5           92.142 Witnesses; pay.--

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

18           Section 37. Effective July 1, 2006, subsections (2)  
19 and (3) of section 92.231, Florida Statutes, are amended to  
20 read:

21           92.231 Expert witnesses; fee.--

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

1           (3) In a criminal case in which the state or an  
2 indigent defendant requires the services of an expert witness  
3 whose opinion is relevant to the issues of the case, the  
4 expert witness shall be compensated in accordance with  
5 standards adopted by the Legislature ~~after receiving~~  
6 ~~recommendations from the Article V Indigent Services Advisory~~  
7 ~~Board.~~

8           Section 38. Paragraph (y) is added to subsection (2)  
9 of section 110.205, Florida Statutes, to read:

10           110.205 Career service; exemptions.--

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

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

18           Section 39. Subsection (1) of section 116.01, Florida  
19 Statutes, is amended to read:

20           116.01 Payment of public funds into treasury.--

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

1           Section 40. Subsections (1) and (4) of section 116.21,  
2 Florida Statutes, are amended to read:

3           116.21 Unclaimed moneys; limitation.--

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

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

1           Section 41. Paragraph (gg) of subsection (6) of  
2 section 119.07, Florida Statutes, is amended to read:

3           119.07 Inspection and copying of records;  
4 photographing public records; fees; exemptions.--

5           (6)

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

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

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

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

28         4. On January 1, 2007 ~~2006~~, and thereafter, the clerk  
29 of the circuit court and the county recorder must keep  
30 complete bank account, debit, charge, and credit card numbers  
31 exempt as provided for in paragraph (dd), and must keep social



1 security numbers confidential and exempt as provided for in s.  
2 119.0721, without any person having to request redaction.

3 Section 42. Section 142.01, Florida Statutes, is  
4 amended to read:

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

11 (1) Fines and penalties pursuant to ss. 28.2402(2),  
12 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

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

15 (3) Court costs pursuant to ss. 28.2402(1)(b),  
16 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and  
17 (11)(a), and 938.05(3).

18 (4) Proceeds from forfeited bail bonds, unclaimed  
19 bonds, unclaimed moneys, or recognizances pursuant to ss.  
20 321.05(4)(a), 372.72(1), and 903.26(3)(a).

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

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

24  
25 Notwithstanding the provisions of this section, all fines and  
26 forfeitures arising from operation of the provisions of s.  
27 318.1215 shall be disbursed in accordance with that section.

28 Section 43. Subsection (5) is added to section 213.13,  
29 Florida Statutes, to read:

30 213.13 Electronic remittance and distribution of funds  
31 collected by clerks of the court.--

1           (5) All court-related collections, including fees,  
2 finances, reimbursements, court costs, and other court-related  
3 funds that the clerks must remit to the state pursuant to law,  
4 must be transmitted electronically by the 20th day of the  
5 month immediately following the month in which the funds are  
6 collected.

7           Section 44. Section 219.07, Florida Statutes, is  
8 amended to read:

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

27           Section 45. Subsection (1) of section 219.075, Florida  
28 Statutes, is amended to read:

29           219.075 Investment of surplus funds by county  
30 officers.--  
31

1           (1)(a) Except when another procedure is prescribed by  
2 law or by ordinance as to particular funds, a tax collector or  
3 any other county officer having, receiving, or collecting any  
4 money, either for his or her office or on behalf of and  
5 subject to subsequent distribution to another officer of state  
6 or local government, while such money is in excess of that  
7 required to meet current expenses or is pending distribution,  
8 shall invest such money, without limitation, as provided in s.  
9 218.415.

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

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

20           Section 46. Section 318.121, Florida Statutes, is  
21 amended to read:

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

28           Section 47. Subsection (13) of section 318.18, Florida  
29 Statutes, is amended, and subsection (14) is added to that  
30 section, to read:  
31

1           318.18 Amount of civil penalties.--The penalties  
2 required for a noncriminal disposition pursuant to s. 318.14  
3 are as follows:

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

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

14           (b) That imposed increased fees or service charges by  
15 ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the  
16 purpose of securing payment of the principal and interest on  
17 bonds issued by the county before July 1, 2003, to finance  
18 state court facilities, may impose by ordinance a surcharge  
19 for any infraction or violation for the exclusive purpose of  
20 securing payment of the principal and interest on bonds issued  
21 by the county before July 1, 2003, to fund state court  
22 facilities until the date of stated maturity. The court shall  
23 not waive this surcharge. Such surcharge may not exceed an  
24 amount per violation calculated as the quotient of the maximum  
25 annual payment of the principal and interest on the bonds as  
26 of July 1, 2003, divided by the number of traffic citations  
27 for county fiscal year 2002-2003 certified as paid by the  
28 clerk of the court of the county. Such quotient shall be  
29 rounded up to the next highest dollar amount. The bonds may be  
30 refunded only if savings will be realized on payments of debt  
31

1 service and the refunding bonds are scheduled to mature on the  
2 same date or before the bonds being refunded.

3  
4 A county may not impose both of the surcharges authorized  
5 under paragraphs (a) and (b) concurrently. The clerk of court  
6 shall report, no later than 30 days after the end of the  
7 quarter, the amount of funds collected under this subsection  
8 during each quarter of the fiscal year. The clerk shall submit  
9 the report, in a format developed by the Office of State  
10 Courts Administrator, to the chief judge of the circuit, the  
11 Governor, the President of the Senate, and the Speaker of the  
12 House of Representatives.

13 (14) In addition to any penalties imposed for  
14 noncriminal traffic infractions under chapter 318 or imposed  
15 for criminal violations listed in s. 318.17, any unit of local  
16 government which is consolidated as provided by s. 9, Art.  
17 VIII of the State Constitution of 1885, as preserved by s.  
18 6(e), Art. VIII of the State Constitution of 1968, and which  
19 is granted the authority in the State Constitution to exercise  
20 all the powers of a municipal corporation, and any unit of  
21 local government operating under a home rule charter adopted  
22 pursuant to ss. 10, 11, and 24, Art. VIII of the State  
23 Constitution of 1885, as preserved by s. 6(e), Art. VIII of  
24 the State Constitution of 1968, which is granted the authority  
25 in the State Constitution to exercise all the powers conferred  
26 now or hereafter by general law upon municipalities, may  
27 impose by ordinance a surcharge of up to \$15 for any  
28 infraction or violation. Revenue from the surcharge shall be  
29 transferred to such unit of local government for the purpose  
30 of replacing fine revenue deposited into the clerk's fine and  
31

1 forfeiture fund under s. 142.01. The court may not waive this  
2 surcharge.

3 Section 48. Effective upon this act becoming a law,  
4 paragraph (g) of subsection (2) of section 318.21, Florida  
5 Statutes, is amended to read:

6 318.21 Disposition of civil penalties by county  
7 courts.--All civil penalties received by a county court  
8 pursuant to the provisions of this chapter shall be  
9 distributed and paid monthly as follows:

10 (2) Of the remainder:

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

15 2. If the violation occurred within a municipality,  
16 50.8 percent shall be paid to that municipality and 5.6  
17 percent shall be deposited into the fine and forfeiture trust  
18 fund established pursuant to s. 142.01.

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

28 Section 49. Section 318.31, Florida Statutes, is  
29 amended to read:

30 318.31 Objectives.--The Supreme Court is hereby  
31 requested to adopt rules and procedures for the establishment

1 and operation of Civil Traffic Infraction Hearing Officer  
2 Programs under ss. 318.30-318.38. ~~However, the appointment of~~  
3 ~~a hearing officer shall be at the option of the county~~  
4 ~~electing to establish such a program, upon recommendation by~~  
5 ~~the county court judge or judges, as the case may be, and the~~  
6 ~~Chief Judge of the Circuit and approval by the Chief Justice~~  
7 ~~of the Supreme Court.~~

8 Section 50. Section 318.325, Florida Statutes, is  
9 amended to read:

10 318.325 Jurisdiction and procedure for parking  
11 infractions.--Any county or municipality may adopt an  
12 ordinance that allows the county or municipality to refer  
13 cases involving the violation of a county or municipal parking  
14 ordinance to a hearing officer ~~funded by the county or~~  
15 ~~municipality~~. Notwithstanding the provisions of ss. 318.14 and  
16 775.08(3), any parking violation shall be deemed to be an  
17 infraction as defined in s. 318.13(3). However, the violation  
18 must be enforced and disposed of in accordance with the  
19 provisions of general law applicable to parking violations and  
20 with the charter or code of the county or municipality where  
21 the violation occurred. The clerk of the court or the  
22 designated traffic violations bureau must collect and  
23 distribute the fines, forfeitures, and court costs assessed  
24 under this section.

25 Section 51. Section 322.29, Florida Statutes, is  
26 amended to read:

27 322.29 Surrender and return of license.--

28 (1) The department, upon suspending or revoking a  
29 license, shall require that such license be surrendered to the  
30 department. At the end of the period of suspension, such  
31 license so surrendered shall be returned, or a duplicate

1 license issued, to the licensee after the applicant has  
2 successfully passed the vision, sign, and traffic law  
3 examinations. In addition, pursuant to s. 322.221, the  
4 department may require the licensee to successfully complete a  
5 driving examination. The department is prohibited from  
6 requiring the surrender of a license except as authorized by  
7 this chapter.

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

28 Section 52. Section 372.72, Florida Statutes, is  
29 amended to read:

30 372.72 Disposition of fines, penalties, and  
31 forfeitures.--



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

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

15           Section 53. Subsection (8) of section 903.26, Florida  
16 Statutes, is amended to read:

17           903.26 Forfeiture of the bond; when and how directed;  
18 discharge; how and when made; effect of payment.--

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

1           Section 54. Section 903.28, Florida Statutes, is  
2 amended to read:

3           903.28 Remission of forfeiture; conditions.--

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

7           (2) If the defendant surrenders or is apprehended  
8 within 90 days after forfeiture, the court, on motion at a  
9 hearing upon notice having been given to the clerk of the  
10 circuit court ~~county attorney~~ and the state attorney as  
11 required in subsection (8), shall direct remission of up to,  
12 but not more than, 100 percent of a forfeiture if the surety  
13 apprehended and surrendered the defendant or if the  
14 apprehension or surrender of the defendant was substantially  
15 procured or caused by the surety, or the surety has  
16 substantially attempted to procure or cause the apprehension  
17 or surrender of the defendant, and the delay has not thwarted  
18 the proper prosecution of the defendant. In addition,  
19 remission shall be granted when the surety did not  
20 substantially participate or attempt to participate in the  
21 apprehension or surrender of the defendant when the costs of  
22 returning the defendant to the jurisdiction of the court have  
23 been deducted from the remission and when the delay has not  
24 thwarted the proper prosecution of the defendant.

25           (3) If the defendant surrenders or is apprehended  
26 within 180 days after forfeiture, the court, on motion at a  
27 hearing upon notice having been given to the clerk of the  
28 circuit court ~~county attorney~~ and the state attorney as  
29 required in subsection (8), shall direct remission of up to,  
30 but not more than, 95 percent of a forfeiture if the surety  
31 apprehended and surrendered the defendant or if the

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

12 (4) If the defendant surrenders or is apprehended  
13 within 270 days after forfeiture, the court, on motion at a  
14 hearing upon notice having been given to the clerk of the  
15 circuit court ~~county attorney~~ and the state attorney as  
16 required in subsection (8), shall direct remission of up to,  
17 but not more than, 90 percent of a forfeiture if the surety  
18 apprehended and surrendered the defendant or if the  
19 apprehension or surrender of the defendant was substantially  
20 procured or caused by the surety, or the surety has  
21 substantially attempted to procure or cause the apprehension  
22 or surrender of the defendant, and the delay has not thwarted  
23 the proper prosecution of the defendant. In addition,  
24 remission shall be granted when the surety did not  
25 substantially participate or attempt to participate in the  
26 apprehension or surrender of the defendant when the costs of  
27 returning the defendant to the jurisdiction of the court have  
28 been deducted from the remission and when the delay has not  
29 thwarted the proper prosecution of the defendant.

30 (5) If the defendant surrenders or is apprehended  
31 within 1 year after forfeiture, the court, on motion at a

1 hearing upon notice having been given to the clerk of the  
2 circuit court ~~county attorney~~ and the state attorney as  
3 required in subsection (8), shall direct remission of up to,  
4 but not more than, 85 percent of a forfeiture if the surety  
5 apprehended and surrendered the defendant or if the  
6 apprehension or surrender of the defendant was substantially  
7 procured or caused by the surety, or the surety has  
8 substantially attempted to procure or cause the apprehension  
9 or surrender of the defendant, and the delay has not thwarted  
10 the proper prosecution of the defendant. In addition,  
11 remission shall be granted when the surety did not  
12 substantially participate or attempt to participate in the  
13 apprehension or surrender of the defendant when the costs of  
14 returning the defendant to the jurisdiction of the court have  
15 been deducted from the remission and when the delay has not  
16 thwarted the proper prosecution of the defendant.

17 (6) If the defendant surrenders or is apprehended  
18 within 2 years after forfeiture, the court, on motion at a  
19 hearing upon notice having been given to the clerk of the  
20 circuit court ~~county attorney~~ and the state attorney as  
21 required in subsection (8), shall direct remission of up to,  
22 but not more than, 50 percent of a forfeiture if the surety  
23 apprehended and surrendered the defendant or if the  
24 apprehension or surrender of the defendant was substantially  
25 procured or caused by the surety, or the surety has  
26 substantially attempted to procure or cause the apprehension  
27 or surrender of the defendant, and the delay has not thwarted  
28 the proper prosecution of the defendant. In addition,  
29 remission shall be granted when the surety did not  
30 substantially participate or attempt to participate in the  
31 apprehension or surrender of the defendant when the costs of

1 returning the defendant to the jurisdiction of the court have  
2 been deducted from the remission and when the delay has not  
3 thwarted the proper prosecution of the defendant.

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

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

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

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

26 Section 55. Section 916.115, Florida Statutes, is  
27 amended to read:

28 916.115 Appointment of experts.--

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

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

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

12 (2) Expert witnesses appointed by the court to  
13 evaluate the mental condition of a defendant in a criminal  
14 case shall be allowed reasonable fees for services rendered as  
15 evaluators of competence or sanity and as witnesses, ~~which~~  
16 ~~shall be paid by the county in which the indictment was found~~  
17 ~~or the information or affidavit was filed.~~

18 (a)1. The court shall pay for any expert that it  
19 appoints by court order, upon motion of counsel for the  
20 defendant or the state or upon its own motion, using funds  
21 specifically appropriated on behalf of the state courts for  
22 due process costs. If the defense or the state retains an  
23 expert and waives the confidentiality of the expert's report,  
24 the court may pay for no more than two additional experts  
25 appointed by court order. If an expert appointed by the court  
26 upon motion of counsel for the defendant specifically to  
27 evaluate the competence of the defendant to proceed also  
28 addresses in his or her evaluation issues related to sanity as  
29 an affirmative defense, the court shall pay only for that  
30 portion of the experts' fees relating to the evaluation on  
31

1 competency to proceed, and the balance of the fees shall be  
2 chargeable to the defense.

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

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

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

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

22 (b) State employees shall be paid expenses pursuant to  
23 s. 112.061.

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

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

30 Section 56. Subsections (2), (3), and (4) of section  
31 916.12, Florida Statutes, are amended to read:

1           916.12 Mental competence to proceed.--  
2           (2) An expert ~~The experts~~ shall first determine  
3 whether the person is mentally ill and, if so, consider the  
4 factors related to the issue of whether the defendant meets  
5 the criteria for competence to proceed; that is, whether the  
6 defendant has sufficient present ability to consult with  
7 counsel with a reasonable degree of rational understanding and  
8 whether the defendant has a rational, as well as factual,  
9 understanding of the pending proceedings. A defendant must be  
10 evaluated by no fewer than two experts before the court  
11 commits the defendant or takes other action authorized by this  
12 chapter or the Florida Rules of Criminal Procedure, except  
13 that if one expert finds that the defendant is incompetent to  
14 proceed and the parties stipulate to that finding, the court  
15 may commit the defendant or take other action authorized by  
16 this chapter or the rules without further evaluation or  
17 hearing, or the court may appoint no more than two additional  
18 experts to evaluate the defendant. Notwithstanding any  
19 stipulation by the state and the defendant, the court may  
20 require a hearing with testimony from the expert or experts  
21 before ordering the commitment of a defendant.

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

26           (a) Appreciate the charges or allegations against the  
27 defendant;

28           (b) Appreciate the range and nature of possible  
29 penalties, if applicable, that may be imposed in the  
30 proceedings against the defendant;  
31



1           (c) Understand the adversarial nature of the legal  
2 process;

3           (d) Disclose to counsel facts pertinent to the  
4 proceedings at issue;

5           (e) Manifest appropriate courtroom behavior; and

6           (f) Testify relevantly;

7  
8 and include in his or her ~~their~~ report any other factor deemed  
9 relevant by the expert ~~experts~~.

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

16           (a) The mental illness causing the incompetence;

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

20           (c) The availability of acceptable treatment and, if  
21 treatment is available in the community, the expert shall so  
22 state in the report; and

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

28           Section 57. Subsection (7) of section 916.301, Florida  
29 Statutes, is amended to read:

30           916.301 Appointment of experts.--  
31

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

12           Section 58. Section 939.185, Florida Statutes, is  
13 amended to read:

14           939.185 Assessment of additional court costs and  
15 surcharges.--

16           (1)(a) The board of county commissioners may adopt by  
17 ordinance an additional court cost, not to exceed \$65, to be  
18 imposed by the court when a person pleads guilty or nolo  
19 contendere to, or is found guilty of, any felony, misdemeanor,  
20 or criminal traffic offense under the laws of this state. Such  
21 additional assessment shall be accounted for separately by the  
22 county in which the offense occurred and be used only in the  
23 county imposing this cost, to be allocated as follows:

24           1. Twenty-five percent of the amount collected shall  
25 be allocated to fund innovations to supplement state funding  
26 for the elements of the state courts system identified in s.  
27 29.004 and county funding for local requirements under s.  
28 29.008(2)(a)2.

29           2. Twenty-five percent of the amount collected shall  
30 be allocated to assist counties in providing legal aid  
31 programs required under s. 29.008(3)(a).

1           3. Twenty-five percent of the amount collected shall  
2 be allocated to fund personnel and legal materials for the  
3 public as part of a law library.

4           4. Twenty-five percent of the amount collected shall  
5 be used as determined by the board of county commissioners to  
6 support teen court programs, juvenile assessment centers, and  
7 other juvenile alternative programs.

8  
9 Each county receiving funds under this section shall report  
10 the amount of funds collected pursuant to this section and an  
11 itemized list of expenditures for all authorized programs and  
12 activities. The report shall be submitted in a format  
13 developed by the Supreme Court to the Governor, the Chief  
14 Financial Officer, the President of the Senate, and the  
15 Speaker of the House of Representatives on a quarterly basis  
16 beginning with the quarter ending September 30, 2004.  
17 Quarterly reports shall be submitted no later than 30 days  
18 after the end of the quarter. Any unspent funds at the close  
19 of the county fiscal year allocated under subparagraphs 2.,  
20 3., and 4., shall be transferred for use pursuant to  
21 subparagraph 1.

22           (b) The disbursement of costs collected under this  
23 section shall be subordinate in priority order of disbursement  
24 to all other state-imposed costs authorized in this chapter,  
25 restitution or other compensation to victims, and child  
26 support payments.

27           (2) The court shall order a person to pay the  
28 additional court cost. If the person is determined to be  
29 indigent, the clerk shall defer payment of this cost.

30           (3) In addition to the court costs imposed under  
31 subsection (1) and any other cost, fine, or penalty imposed by

1 law, any unit of local government which is consolidated as  
2 provided by s. 9, Art. VIII of the State Constitution of 1885,  
3 as preserved by s. 6(e), Art. VIII of the State Constitution  
4 of 1968, and which is granted the authority in the State  
5 Constitution to exercise all the powers of a municipal  
6 corporation, and any unit of local government operating under  
7 a home rule charter adopted pursuant to ss. 10, 11, and 24,  
8 Art. VIII of the State Constitution of 1885, as preserved by  
9 s. 6(e), Art. VIII of the State Constitution of 1968, and  
10 which is granted the authority in the State Constitution to  
11 exercise all the powers conferred now or hereafter by general  
12 law upon municipalities, may impose by ordinance a surcharge  
13 in the amount of \$85 to be imposed by the court when a person  
14 pleads guilty or nolo contendere to, or is found guilty of,  
15 any felony, misdemeanor, or criminal traffic offense under the  
16 laws of this state. Revenue from the surcharge shall be  
17 transferred to such unit of local government for the purpose  
18 of replacing fine revenue deposited into the clerk's fine and  
19 forfeiture fund under s. 142.01. The court may not waive this  
20 surcharge.

21 Section 59. Subsection (2) of section 938.29, Florida  
22 Statutes, is amended to read:

23 938.29 Legal assistance; lien for payment of  
24 attorney's fees or costs.--

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

28 1. Has received any assistance from any public  
29 defender of the state, from any special assistant public  
30 defender, or from any conflict attorney; or

31

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

5  
6 Such lien constitutes a claim against the defendant-recipient  
7 or parent and his or her estate, enforceable according to law.

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

17           Section 60. Section 939.06, Florida Statutes, is  
18 amended to read:

19           939.06 Acquitted defendant not liable for costs.--

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

29           (2) To receive a refund under this section, a  
30 defendant must submit a request for the refund to the Justice  
31 Administrative Commission on a form and in a manner prescribed

1 by the commission. The defendant must attach to the form an  
2 order from the court demonstrating the defendant's right to  
3 the refund and the amount of the refund.

4 (3) If a defendant seeking a refund under this section  
5 has paid the \$40 fee required under s. 27.52(1)(b), the  
6 Justice Administrative Commission shall pay the first \$40 of  
7 any refund of taxable costs or fees paid by the defendant,  
8 which meet the criteria of this section, using funds  
9 appropriated from the Indigent Criminal Defense Trust Fund. If  
10 the defendant has not paid the \$40 fee, the commission shall  
11 pay the refund of any other eligible taxable costs or fees  
12 paid by the defendant using funds from the applicable  
13 appropriation for due-process costs related to implementation  
14 of s. 14, Art. V of the State Constitution.

15 Section 61. Subsection (2) of section 985.05, Florida  
16 Statutes, is amended to read:

17 985.05 Court records.--

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

1 | official record pertaining to the child. The court may permit  
2 | authorized representatives of recognized organizations  
3 | compiling statistics for proper purposes to inspect, and make  
4 | abstracts from, official records under whatever conditions  
5 | upon the use and disposition of such records the court may  
6 | deem proper and may punish by contempt proceedings any  
7 | violation of those conditions.

8 |         Section 62. Paragraph (c) of subsection (4) of section  
9 | 985.201, Florida Statutes, is amended to read:

10 |             985.201 Jurisdiction.--

11 |             (4)

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

30 |         Section 63. Section 92.152, Florida Statutes, is  
31 | created to read:

1           92.152 Compensation to traffic court witnesses.--Any  
2 party who secures the attendance of a witness in traffic court  
3 shall bear all costs of calling the witness, including witness  
4 fees. If the witness is required to testify on behalf of the  
5 prosecution, the office of the state attorney of the  
6 respective judicial circuit shall pay the fees and costs of  
7 calling the witness.

8           Section 64. Recovery of expenditures for state-funded  
9 services.--The trial court administrator of each circuit shall  
10 recover expenditures for state-funded services when those  
11 services have been furnished to a user of the state court  
12 system who possesses the present ability to pay. The rate of  
13 compensation for such services shall be the actual cost of the  
14 services, including the cost of recovery. The trial court  
15 administrator shall deposit moneys recovered under this  
16 section in the Grants and Donations Trust Fund within the  
17 state court system. The trial court administrator shall  
18 recover the costs of court-reporter services and  
19 transcription; court-interpreter services, including  
20 translation; and any other service for which state funds were  
21 used to provide a product or service within the circuit. This  
22 section does not authorize cost recovery from entities  
23 described in ss. 29.005, 29.006, and 29.007.

24           Section 65. (1)(a) The Legislature finds that the use  
25 of estimates of prior-year expenditures to establish maximum  
26 annual budgets for the county fiscal year 2004-2005 resulted  
27 in maximum annual budgets for some clerks of court which were  
28 less than the amounts would have been if actual prior-year  
29 expenditures had been used.

30           (b) The Legislature further finds that the clerks of  
31 court perform duties critical to the operations of the



1 judicial branch and that future maximum annual budgets for the  
2 clerks of court are based in part on their prior-year budgets.

3 (c) The Legislature further finds that the difference  
4 between establishing the maximum annual budget using estimated  
5 prior-year expenditures and using actual prior-year  
6 expenditures was significant for the Clerk of Court for the  
7 Eleventh Judicial Circuit.

8 (2) Therefore, the maximum annual budget for the Clerk  
9 of Court for the Eleventh Judicial Circuit is increased by  
10 \$3,817,115 for the county fiscal year 2004-2005.

11 Section 66. It is the intent of the Legislature that  
12 the amendments made by this act to sections 34.191 and 318.21,  
13 Florida Statutes, are remedial. It is the further intent of  
14 the Legislature that fines and forfeitures or civil penalties  
15 arising from offenses or violations committed or occurring  
16 within an unincorporated area of a municipality having a  
17 consolidated government under Section 6(e), Article VIII of  
18 the State Constitution be paid or deposited for fiscal year  
19 2004-2005 as provided in sections 34.191 and 318.21, Florida  
20 Statutes, as those sections are amended by this act. This  
21 section shall take effect upon becoming a law.

22 Section 67. Subsection (4) of section 29.005, Florida  
23 Statutes, is repealed.

24 Section 68. Effective July 1, 2006, section 29.014,  
25 Florida Statutes, is repealed.

26 Section 69. Section 318.37, Florida Statutes, is  
27 repealed.

28 Section 70. Fifteen full-time positions are  
29 authorized, and the sum of \$949,414 in recurring funds is  
30 appropriated from the General Revenue Fund to the Justice  
31 Administrative Commission in salaries and benefits for the

1 2005-2006 fiscal year. The sums of \$110,809 in recurring funds  
2 and \$73,502 in nonrecurring funds are appropriated from the  
3 General Revenue Fund to the Justice Administrative Commission  
4 in expenses for the 2005-2006 fiscal year. The sum of \$62,000  
5 in nonrecurring funds is appropriated from the General Revenue  
6 Fund to the Justice Administrative Commission in operating  
7 capital outlay for the 2005-2006 fiscal year. The sum of  
8 \$4,275 in recurring funds is appropriated from the General  
9 revenue Fund to the Justice Administrative Commission for  
10 human resource services for the 2005-2006 fiscal year.

11 Section 71. The sum of \$1.5 million in recurring funds  
12 is appropriated from the General Revenue Fund to the Justice  
13 Administrative Commission in public defender due process for  
14 the 2005-2006 fiscal year.

15 Section 72. The sum of \$800,000 in recurring funds is  
16 appropriated from the General Revenue Fund to the Justice  
17 Administrative Commission in state attorney due process for  
18 the 2005-2006 fiscal year.

19 Section 73. The sum of \$182,885 in recurring funds is  
20 appropriated from the General Revenue Fund to the State  
21 Attorney for the Eleventh Judicial Circuit in state attorney  
22 operations for the 2005-2006 fiscal year.

23 Section 74. 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                                           CS for SB 2542

4 The committee substitute clarifies that official records are  
5 the property of a county comptroller if this officer is the  
6 official custodian of the records.

6 The committee substitute eliminates the ability of the Clerk  
7 of Court Operations Corporation to increase the budgets for  
8 clerks for certain costs. It requires that when budgets are  
9 revised due to the cost of state mandates or Supreme Court  
10 rule, or an increase in the number of judges or magistrates,  
11 that the methodology to determine the increase costs be  
12 approved by the Department of Financial Services.

10 The Committee substitute allows clerks to continue to perform  
11 certain functions to support the courts for another year and  
12 requires affected clerks to give the court notice before such  
13 functions are terminated.

13 The committee substitute authorizes certain local governments  
14 to impose a surcharge of \$15 on non-criminal infractions and  
15 \$85 on criminal infractions with the proceeds to go to the  
16 local government.

15 The committee substitute finds that the use of estimated  
16 expenditures rather than actual expenditures for determining  
17 clerk budgets has significantly impacted the Clerk of the  
18 Court in the 11th Circuit and adjusts that office's budget.

18 The committee substitute expresses legislative intent that  
19 revisions to ss 34.191 and 318.21, F.S. are remedial and that  
20 fines from violations be paid for the current year.

20 The committee substitute makes appropriations from the General  
21 Revenue Fund to the Justice Administrative Commission, the  
22 public defenders, and the state attorneys for the 2005-06  
23 fiscal year.

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