

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 revising requirements for private
8 court-appointed counsel; requiring that data be
9 compiled on the race, sex, and ethnicity of
10 attorneys within a specified circuit for a
11 limited time; requiring the Justice
12 Administrative Commission to approve uniform
13 procedures and forms for use in billing for an
14 attorney's fees, costs, and related expenses;
15 requiring that a withdrawal order be filed with
16 the commission; providing that withdrawal from
17 a case creates a rebuttable presumption of
18 nonentitlement to the entire flat fee;
19 authorizing the Justice Administrative
20 Commission to review certain records; amending
21 s. 27.42, F.S.; requiring that the circuit
22 Article V indigent services committee establish
23 the compensation rates for court-appointed
24 counsel or in cases of indigency; providing a
25 limitation on the rates; requiring each
26 committee to establish a schedule of allowances
27 for due-process expenses; authorizing alternate
28 models for providing criminal and civil
29 due-process representation; requiring that the
30 expenses for representing indigent persons be
31 appropriated in a separate category within the

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

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

1 containing multiple allegations; exempting
2 certain enforcement actions from the filing
3 fee; excluding unincorporated areas of certain
4 consolidated governments from the term
5 "municipality" for purposes of sharing with the
6 clerk certain fines from local ordinance
7 violations; amending s. 28.245, F.S.; requiring
8 that the clerks of the court remit collections
9 to the Department of Revenue within a specified
10 period; amending s. 28.246, F.S.; conforming a
11 reference; revising provisions authorizing an
12 individual to enter into a payment plan for the
13 payment of fees, costs, or fines; providing for
14 the court to review the payment plan; amending
15 s. 28.345, F.S.; exempting certain court staff,
16 public guardians, attorneys ad litem, and
17 court-appointed counsel from the payment of
18 fees and charges assessed by the clerk of the
19 circuit court; amending s. 28.35, F.S.;
20 requiring the Florida Clerks of Court
21 Operations Committee to report on additional
22 budget funding authority provided to a clerk;
23 amending s. 28.36, F.S.; revising the date for
24 the county clerk to submit a proposed budget;
25 conforming a reference to the Florida Clerks of
26 Court Operations Corporation; conforming a
27 reference to the Chief Financial Officer;
28 conforming a cross-reference; providing for
29 identification of ineligible expenditures by
30 the clerks of court; requiring the clerks to
31 reimburse ineligible expenditures to the Clerks

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

1 county-funded communications services; creating
2 s. 29.0081, F.S.; authorizing counties and
3 judicial circuits to agree to the funding of
4 personnel positions for the circuit; providing
5 requirements for such agreements; providing for
6 the effect and limitation of such agreements;
7 amending s. 29.015, F.S.; authorizing the
8 Justice Administrative Commission to transfer
9 funds to address budget deficits relating to
10 due-process services; requiring notice of the
11 transfer; amending s. 29.018, F.S.; eliminating
12 the authority for court-appointed counsel to
13 contract to share in court and due-process
14 costs; providing that the Justice
15 Administrative Commission may contract for such
16 cost-sharing on behalf of court-appointed
17 counsel; creating s. 29.0185, F.S.; specifying
18 conditions under which state-funded due-process
19 services are provided; amending s. 34.045,
20 F.S.; prohibiting the county court from
21 charging a county or municipality more than one
22 filing fee for a single filing containing
23 multiple allegations; exempting certain
24 enforcement actions from the filing fee;
25 expanding conditions under which the county or
26 municipality is the prevailing party; requiring
27 an assessment for a filing fee; amending s.
28 34.191, F.S.; excluding certain consolidated
29 governments from the term municipality for
30 purposes of remitting certain fines and
31 forfeitures; 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. 44.103,
29 F.S.; limiting the amount of per diem expenses
30 that an arbitrator may charge; amending s.
31 44.108, F.S.; clarifying the fees charged for

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

1 related organizations are not career service
2 positions; amending s. 116.01, F.S.; providing
3 procedures for the clerk of the court to remit
4 funds to the Department of Revenue; amending s.
5 116.21, 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. 938.19, F.S.;

2 authorizing a board of county commissioners to

3 adopt an ordinance that incorporates the

4 provisions of the act; providing funding for a

5 teen court through the assessment of an

6 additional court cost against each person who

7 pleads guilty or nolo contendere to, or is

8 convicted of, a violation of a criminal law, an

9 ordinance, or a traffic offense in the county;

10 providing for administration by the clerk of

11 the circuit court; authorizing the clerk of the

12 court to retain a specified percentage of the

13 assessments collected as income to the clerk of

14 the court; requiring the teen court to account

15 for all funds deposited into the teen court

16 account; requiring an annual report to the

17 board of county commissioners by a specified

18 date; authorizing specified organizations to

19 operate and administer a teen court program;

20 prohibiting teen courts in counties adopting an

21 ordinance from recovering court costs under s.

22 939.185, F.S.; amending s. 939.185, F.S.;

23 providing an exception for teen court funding;

24 amending s. 318.18, F.S.; authorizing a portion

25 of certain surcharge revenues to be used for

26 local law libraries; requiring that the clerk

27 of the court report the amount of certain

28 surcharges collected to the chief judge, the

29 Governor, and the Legislature; authorizing

30 local governments to assess a surcharge on

31 noncriminal offenses; restricting the use of

1 surcharge proceeds; amending s. 318.21, F.S.;
2 providing for the disposition of
3 traffic-infraction penalties for violations
4 occurring in unincorporated areas of certain
5 consolidated governments; amending s. 318.31,
6 F.S.; deleting provisions concerning the
7 appointment of a civil traffic infraction
8 hearing officer; amending s. 318.32, F.S.;
9 prohibiting a hearing officer from suspending a
10 defendant's driver's license; amending s.
11 318.325, F.S.; deleting provisions specifying
12 the funding of such hearing officer; amending
13 s. 322.29, F.S.; increasing the fees charged
14 for reinstating a driver's license; amending s.
15 372.72, F.S.; requiring that the proceeds from
16 unclaimed bonds be deposited into the clerk's
17 fine and forfeiture fund; amending s. 903.26,
18 F.S.; revising the procedure for determining
19 the amount of the costs incurred in returning a
20 defendant to the county of jurisdiction;
21 amending s. 903.28, F.S.; revising certain
22 notice requirements following the surrender or
23 apprehension of a defendant for purposes of
24 remission of a forfeiture; authorizing the
25 clerk of the circuit court to enter into
26 certain contracts for purposes of
27 representation in an action for the remission
28 of a forfeiture; providing that the clerk is
29 the real party in interest for all appeals
30 arising from such an action; authorizing the
31 clerk to withhold unpaid fines, fees, costs,

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

1 court has ordered restitution for certain
2 delinquent acts; requiring entry of a
3 restitution order; creating s. 92.152, F.S.;
4 requiring that the party calling a witness in
5 traffic court bear the costs; requiring that
6 the office of the state attorney pay such costs
7 if the witness is required to testify on behalf
8 of the prosecution; directing the trial court
9 administrator to recover expenditures for
10 state-funded services if those services were
11 furnished to a user possessing the ability to
12 pay; providing that the rate may not exceed the
13 cost of the service and recovery; revising the
14 maximum annual budget amount for the Clerk of
15 Court for the Eleventh Judicial Circuit;
16 providing legislative intent for revisions to
17 ss. 28.2402(2), 34.191, and 318.21, F.S.;
18 repealing s. 29.005(4), F.S., relating to
19 prosecution expenses for appointing mental
20 health professionals; repealing s. 29.014,
21 F.S., relating to the Article V Indigent
22 Services Advisory Board; repealing s. 318.37,
23 F.S., relating to funding for a Civil Traffic
24 Infraction Hearing Officer Program; providing
25 appropriations; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (2), (3), (5), and (7) of
30 section 27.40, Florida Statutes, are amended to read:

31

1 27.40 Court-appointed counsel; circuit registries;
2 minimum requirements; appointment by court.--

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

8 (3) In utilizing a registry:

9 (a) Each circuit Article V indigent services committee
10 shall compile and maintain a list of attorneys in private
11 practice, by county and by category of cases. In the eleventh
12 judicial circuit for the 2005-2006 and 2006-2007 fiscal years,
13 the committee shall compile and maintain a list of attorneys
14 by race, sex, and ethnicity of the assigned attorneys. To be
15 included on a registry, attorneys shall certify that they meet
16 any minimum requirements established in general law for court
17 appointment, are available to represent indigent defendants in
18 cases requiring court appointment of private counsel, and are
19 willing to abide by the terms of the contract for services. To
20 be included on a registry, an attorney also must enter into a
21 contract for services with the Justice Administrative
22 Commission. Failure to comply with the terms of the contract
23 for services may result in termination of the contract and
24 removal from the registry. Each attorney on the registry shall
25 be responsible for notifying the circuit Article V indigent
26 services committee and the Justice Administrative Commission
27 of any change in his or her status. Failure to comply with
28 this requirement shall be cause for termination of the
29 contract for services and removal from the registry until the
30 requirement is fulfilled.
31

1 (b) The court shall appoint attorneys in rotating
2 order in the order in which names appear on the applicable
3 registry, unless the court makes a finding of good cause on
4 the record for appointing an attorney out of order. An
5 attorney not appointed in the order in which his or her name
6 appears on the list shall remain next in order.

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

15 (d) Quarterly, ~~beginning no later than October 1,~~
16 ~~2004,~~ each circuit Article V indigent services committee shall
17 provide a current copy of each registry to the Chief Justice
18 of the Supreme Court, the chief judge, the state attorney and
19 public defender in each judicial circuit, and the clerk of
20 court in each county, the Justice Administrative Commission,
21 and the Indigent Services Advisory Board with a current copy
22 of each registry. In the eleventh judicial circuit for the
23 2005-2006 and 2006-2007 fiscal years, the registry shall
24 identify the race, sex, and ethnicity of each attorney listed
25 in the registry.

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

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

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

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

4 Section 3. Section 27.52, Florida Statutes, is amended
5 to read:

6 (Substantial rewording of section. See s.

7 27.52, F.S., for present text.)

8 27.52 Determination of indigent status.--

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

15 (a) The application must include, at a minimum, the
16 following financial information:

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

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

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

29 4. All liabilities and debts.

30
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1 5. If applicable, the amount of any bail paid for the
2 applicant's release from incarceration and the source of the
3 funds.

4
5 The application must include a signature by the applicant
6 which attests to the truthfulness of the information provided.
7 The application form developed by the corporation must include
8 notice that the applicant may seek court review of a clerk's
9 determination that the applicant is not indigent, as provided
10 in this section.

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

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

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

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

25 (d) All application fees collected by the clerk under
26 this section shall be transferred monthly by the clerk to the
27 Department of Revenue for deposit in the Indigent Criminal
28 Defense Trust Fund administered by the Justice Administrative
29 Commission, to be used as appropriated by the Legislature. The
30 clerk may retain 2 percent of application fees collected

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1 monthly for administrative costs prior to remitting the
2 remainder to the Department of Revenue.

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

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

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

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

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

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

10 1. The applicant is not indigent.

11 2. The applicant is indigent.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 1. The applicant is not indigent.

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

1 1. The applicant is not indigent for costs.

2 2. The applicant is indigent for costs.

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

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

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

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

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

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

31

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

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

8 Section 4. Subsections (1), (2), (4), and (6) of
9 section 27.5304, Florida Statutes, are amended, and
10 subsections (7), (8), (9), and (10) are added to that section,
11 to read:

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

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

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

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

29 | (4) By January 1 of each year, the Article V Indigent
30 | Services Advisory Board shall recommend to the Legislature any
31 |

1 adjustments to the compensation provisions of this section.

2 This subsection expires on July 1, 2006.

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

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

13 (a) Upon entry of an order of disposition as to the
14 parent being represented;

15 (b) Upon conclusion of a 12-month permanency review;
16 and

17 (c) Following a judicial review hearing.

18
19 In no case, however, may counsel submit requests under this
20 subsection more than once per quarter, unless the court finds
21 extraordinary circumstances justifying more frequent
22 submission of payment requests.

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

27 (a) Upon the filing of an appellate brief, including,
28 but not limited to, a reply brief; and

29 (b) When the opinion of the appellate court is
30 finalized.

31

1 (9) Private court-appointed counsel may not bill for
2 preparation of invoices whether or not the case is paid on the
3 basis of an hourly rate or by flat fee.

4 (10) The Justice Administrative Commission shall
5 develop a schedule to provide partial payment of attorney fees
6 for cases that are not resolved within 6 months. The schedule
7 must provide that the aggregate payments shall not exceed
8 limits established by law. Any partial payment made pursuant
9 to this subsection shall not exceed the actual value of
10 services provided to date. Any partial payment shall be
11 proportionate to the value of services provided based on
12 payment rates included in the contract, not to exceed any
13 limit provided by law.

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

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

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

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

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

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

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

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

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

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

29
30 Charges
31

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

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

7 (3) For certifying copies of any instrument in the
8 public records.....1.50

9 (4) For verifying any instrument presented for
10 certification prepared by someone other than clerk, per page
113.00

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

15 (b) For making copies by photographic process of any
16 instrument in the public records of more than 14 inches by 8
17 1/2 inches, per page.....5.00

18 (6) For making microfilm copies of any public records:
19 (a) 16 mm 100' microfilm roll.....37.50
20 (b) 35 mm 100' microfilm roll.....52.50
21 (c) Microfiche, per fiche.....3.00

22 (7) For copying any instrument in the public records
23 by other than photographic process, per page.....6.00

24 (8) For writing any paper other than herein
25 specifically mentioned, same as for copying, including signing
26 and sealing.....6.00

27 (9) For indexing each entry not recorded.....1.00

28 (10) For receiving money into the registry of court:
29 (a)1. First \$500, percent.....3
30 2. Each subsequent \$100, percent.....1.5
31 (b) Eminent domain actions, per deposit.....\$150.00

1 (11) For examining, certifying, and recording plats
2 and for recording condominium exhibits larger than 14 inches
3 by 8 1/2 inches:

4 (a) First page.....30.00
5 (b) Each additional page.....15.00

6 (12) For recording, indexing, and filing any
7 instrument not more than 14 inches by 8 1/2 inches, including
8 required notice to property appraiser where applicable:

9 (a) First page or fraction thereof.....5.00
10 (b) Each additional page or fraction thereof.....4.00
11 (c) For indexing instruments recorded in the official
12 records which contain more than four names, per additional
13 name.....1.00
14 (d) An additional service charge shall be paid to the
15 clerk of the circuit court to be deposited in the Public
16 Records Modernization Trust Fund for each instrument listed in
17 s. 28.222, except judgments received from the courts and
18 notices of lis pendens, recorded in the official records:

19 1. First page.....1.00
20 2. Each additional page.....0.50

21

22 Said fund shall be held in trust by the clerk and used
23 exclusively for equipment and maintenance of equipment,
24 personnel training, and technical assistance in modernizing
25 the public records system of the office. In a county where the
26 duty of maintaining official records exists in an office other
27 than the office of the clerk of the circuit court, the clerk
28 of the circuit court is entitled to 25 percent of the moneys
29 deposited into the trust fund for equipment, maintenance of
30 equipment, training, and technical assistance in modernizing
31 the system for storing records in the office of the clerk of

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

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

29 1. If the counties maintain legal responsibility for
30 the costs of the court-related technology needs as defined in
31 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to

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

1 System for copies of records generated by the Comprehensive
2 Case Information System or held by the clerk of court or any
3 entity acting on behalf of the clerk of court, including an
4 association.

5 2. If the state becomes legally responsible for the
6 costs of court-related technology needs as defined in s.
7 29.008(1)(f)2. and (h), whether by operation of general law or
8 by court order, \$4 shall be remitted to the Department of
9 Revenue for deposit into the General Revenue Fund.

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

12 (14) For validating certificates, any authorized
13 bonds, each.....3.00

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

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

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

19 (18)(a) For issuing and filing a subpoena for a
20 witness, not otherwise provided for herein (includes writing,
21 preparing, signing, and sealing).....6.00

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

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

24 (20) For searching of records, for each year's search
251.50

26 (21) For processing an application for a tax deed sale
27 (includes application, sale, issuance, and preparation of tax
28 deed, and disbursement of proceeds of sale), other than excess
29 proceeds.....60.00

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

1 (23) Upon receipt of an application for a marriage
2 license, for preparing and administering of oath; issuing,
3 sealing, and recording of the marriage license; and providing
4 a certified copy.....30.00
5 (24) For solemnizing matrimony.....30.00
6 (25) For sealing any court file or expungement of any
7 record.....37.50
8 (26)(a) For receiving and disbursing all restitution
9 payments, per payment.....3.00
10 (b) For receiving and disbursing all partial payments,
11 other than restitution payments, for which an administrative
12 processing service charge is not imposed pursuant to s.
13 28.246, per month.....5.00
14 (c) For setting up a payment plan, a one-time
15 administrative processing charge in lieu of a per month charge
16 under paragraph (b).....25.00
17 (27) Postal charges incurred by the clerk of the
18 circuit court in any mailing by certified or registered mail
19 shall be paid by the party at whose instance the mailing is
20 made.
21 (28) For furnishing an electronic copy of information
22 contained in a computer database: a fee as provided for in
23 chapter 119.

24 Section 7. Paragraph (a) of subsection (1) and
25 subsection (2) of section 28.2402, Florida Statutes, are
26 amended to read:

27 28.2402 Cost recovery; use of the circuit court for
28 ordinance or special law violations.--

29 (1)(a) In lieu of payment of a filing fee under s.
30 28.241, a filing fee of \$10 shall be paid by a county or
31 municipality when filing a county or municipal ordinance

1 violation or violation of a special law in circuit court. This
2 fee shall be paid to the clerk of the court for performing
3 court-related functions. A county or municipality is not
4 required to pay more than one filing fee for a single filing
5 against a single defendant which contains multiple alleged
6 violations. A filing fee, other than that imposed under this
7 section, may not be assessed for initiating an enforcement
8 proceeding in circuit court for a violation of a county or
9 municipal code or ordinance or a violation of a special law.
10 The filing fee does not apply to instances in which a county
11 or a municipality has contracted with the state, or has been
12 delegated by the state, responsibility for enforcing state
13 operations, policies, or requirements under s. 125.69, s.
14 166.0415, or chapter 162.

15 (2) To offset costs incurred by the clerks of the
16 court in performing court-related functions associated with
17 the processing of violations of special laws and municipal
18 ordinances, 10 percent of the total amount of fines paid to
19 each municipality for special law or ordinance violations
20 filed in circuit court shall be retained by the clerk of the
21 court for deposit into the clerk's fine and forfeiture fund
22 established pursuant to s. 142.01, except for fines a portion
23 of which the clerk of the court retains pursuant to any other
24 provision of state law. A municipality does not include the
25 unincorporated areas, if any, of a government created pursuant
26 to s. 6(e), Art. VIII of the State Constitution.

27 Section 8. Section 28.245, Florida Statutes, is
28 amended to read:

29 28.245 Transmittal of funds to Department of Revenue;
30 uniform remittance form required.--Notwithstanding any other
31 provision of law, all moneys collected by the clerks of the

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

12 | Section 9. Subsections (1) and (4) of section 28.246,
13 | Florida Statutes, are amended to read:

14 | 28.246 Payment of court-related fees, charges, and
15 | costs; partial payments; distribution of funds.--

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

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

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

28 | (c) The total amount of mandatory fines and other
29 | monetary penalties; the total amount assessed; the total
30 | amount discharged, waived, or otherwise not assessed; and the
31 | total amount collected.

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

4
5 If provided to the clerk of court by the judge, the clerk, in
6 reporting the amount assessed, shall separately identify the
7 amount assessed pursuant to s. 938.30 as community service;
8 assessed by reducing the amount to a judgment or lien;
9 satisfied by time served; or other. The form developed by the
10 Chief Financial Officer shall include separate entries for
11 recording these amounts. The clerk shall submit the report on
12 a quarterly basis 30 days after the end of the quarter for the
13 period from July 1, 2003, through June 30, 2004, and on an
14 annual basis thereafter, 60 days after the end of the county
15 fiscal year.

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

1 ~~with periodic payment amounts corresponding to the~~
2 ~~individual's ability to pay.~~

3 Section 10. Section 28.345, Florida Statutes, is
4 amended to read:

5 28.345 Exemption from court-related fees and
6 charges.--Notwithstanding any other provision of this chapter
7 or law to the contrary, judges and those court staff acting on
8 behalf of judges, state attorneys, guardians ad litem, public
9 guardians, attorneys ad litem, court-appointed private
10 counsel, and public defenders, acting in their official
11 capacity, and state agencies, are exempt from all
12 court-related fees and charges assessed by the clerks of the
13 circuit courts.

14 Section 11. Paragraph (a) of subsection (3) of section
15 28.35, Florida Statutes, is amended to read:

16 28.35 Florida Clerks of Court Operations
17 Corporation.--

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

1 under s. 28.36(6), as well as the documentation required under
2 s. 28.36 relating to the factual basis for the approval.

3 Section 12. Paragraph (a) of subsection (3) and
4 paragraph (b) of subsection (4) of section 28.36, Florida
5 Statutes, are amended, present subsection (6) of that section
6 is redesignated as subsection (7), and a new subsection (6) is
7 added to that section, to read:

8 28.36 Budget procedure.--There is hereby established a
9 budget procedure for the court-related functions of the clerks
10 of the court.

11 (3) Each proposed budget shall further conform to the
12 following requirements:

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

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

1 proposed budget is limited to the standard list of
2 court-related functions in s. 28.35(4)(a).

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

19 (6) The legislature budget commission may approve
20 adjustments to the clerk's maximum annual budget for
21 court-related duties if either of the following conditions
22 exist:

23 (a) The additional funding is necessary to pay the
24 cost of performing new or additional functions required by
25 changes in law or court rule. Before the maximum annual budget
26 of any clerk can be increased, the Clerk of the Court
27 corporation shall provide the legislative budget commission a
28 statement of the impact of the proposed budget changes on
29 state revenues, and evidence that the respective clerk of the
30 court is meeting or exceeding the established performance
31 standards for measures on the fiscal management, operational

1 efficiency, and effective collection of fines, fees, service
2 charges, and court costs.

3 (b) The additional funding is necessary to pay the
4 cost of supporting increases in the number of judges or
5 magistrates authorized by the Legislature. Before the maximum
6 annual budget of any clerk can be increased. The Clerk of the
7 Court Corporation shall provide the legislative budget
8 commission a statement of the impact of the proposed budget
9 changes on state revenues, evidence that the respective clerk
10 of the court is meeting or exceeding the established
11 performance standards for measures on the fiscal management,
12 operational efficiency, and effective collection of fines,
13 fees, service charges, and court costs, and a proposed
14 staffing model, including the cost and number of staff
15 necessary to support each new judge or magistrate.

16 Section 13. Subsection (4) of section 28.37, Florida
17 Statutes, is amended to read:

18 28.37 Fines, fees, service charges, and costs remitted
19 to the state.--

20 (4) Beginning January 1, 2005, for the period July 1,
21 2004, through September 30, 2004, and each January 1
22 thereafter for the preceding county fiscal year of October 1
23 through September 30, the clerk of the court must remit to the
24 Department of Revenue for deposit in the General Revenue Fund
25 the cumulative excess of all fees, service charges, court
26 costs, and fines retained by the clerks of the court, plus any
27 funds received by the clerks of the court from the Department
28 of Revenue's Clerk of the Court Trust Fund under s.
29 28.36(4)(a), over the amount needed to meet the approved
30 budget amounts established under s. 28.36.

31

1 Section 14. Section 28.44, Florida Statutes, is
2 created to read:

3 28.44 Clerk discontinuance of court-related
4 functions.--

5 (1) A function of the clerk of court being performed
6 in support of the trial courts by the individual clerks of
7 court on July 1, 2004, may not be discontinued or
8 substantially modified on a unilateral basis except pursuant
9 to this section. A clerk of court may discontinue performing a
10 function performed in support of the trial court only if:

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

14 (b) The clerk of court has given written notice of the
15 intention to substantially modify or discontinue a function
16 performed in support of the trial court at least 1 year before
17 the effective date of the discontinuance or substantial
18 modification of the function.

19 (2) "Substantial modification" of a function performed
20 in support of the trial court means a modification which has
21 the effect of reducing the level of services provided to the
22 trial court.

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

25 29.004 State courts system.--For purposes of
26 implementing s. 14, Art. V of the State Constitution, the
27 elements of the state courts system to be provided from state
28 revenues appropriated by general law are as follows:

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

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

3 29.007 Court-appointed counsel.--For purposes of
4 implementing s. 14, Art. V of the State Constitution, the
5 elements of court-appointed counsel to be provided from state
6 revenues appropriated by general law are as follows:

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

10 (2) Private attorneys appointed by the court to
11 represent indigents or other classes of litigants in civil
12 proceedings requiring court-appointed counsel in accordance
13 with state and federal constitutional guarantees and federal
14 and state statutes.

15 (3) Reasonable court reporting and transcription
16 services necessary to meet constitutional or statutory
17 requirements, including the cost of transcribing and copying
18 depositions of witnesses and the cost of foreign language and
19 sign-language interpreters and translators.

20 (4) Witnesses, including expert witnesses, summoned to
21 appear for an investigation, preliminary hearing, or trial in
22 a case when the witnesses are summoned on behalf of an
23 indigent, and any other expert witnesses approved by the
24 court.

25 (5) Mental health professionals appointed pursuant to
26 s. 394.473 and required in a court hearing involving an
27 indigent, ~~and~~ mental health professionals appointed pursuant
28 to s. 916.115(2) and required in a court hearing involving an
29 indigent, and any other mental health professionals required
30 by law for the full adjudication of any civil case involving
31 an indigent person.

1 (6) Reasonable pretrial consultation fees and costs.

2 (7) Travel expenses reimbursable under s. 112.061
3 reasonably necessary in the performance of constitutional and
4 statutory responsibilities.

5
6 Subsections (3), (4), (5), (6), and (7) apply when
7 court-appointed counsel is appointed; when the litigant
8 retains, or is represented on a pro-bono basis by, a private
9 attorney and the court determines that the litigant is
10 indigent for costs; or when the litigant is acting pro se and
11 the court determines that the litigant is indigent for costs
12 at the trial or appellate level. This section applies in any
13 situation in which the court appoints counsel to protect a
14 litigant's due-process rights. The Justice Administrative
15 Commission shall approve uniform contract forms for use in
16 processing due-process services under this section. In each
17 case in which a private attorney represents a person
18 determined by the court to be indigent for costs, the attorney
19 shall execute the commission's contract for private attorneys
20 representing persons who are indigent for costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 3. Courier messenger and subpoena services.

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

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

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

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

22 Section 18. Section 29.0081, Florida Statutes, is
23 created to read:

24 29.0081 County funding of additional court
25 personnel.--

26 (1) A county and the chief judge of a judicial circuit
27 that includes that county may enter into an agreement under
28 which the county funds personnel positions to assist in the
29 operation of the circuit.

30 (2) The agreement shall, at a minimum, provide that:
31

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

3 (b) The personnel whose employment is funded under the
4 agreement are employees of the judicial circuit and are hired,
5 supervised, managed, and fired by personnel of the judicial
6 circuit; and

7 (c) The positions terminate upon the expiration of, or
8 substantial breach of, the agreement or upon the expiration of
9 county funding for the positions.

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

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

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

19 29.015 Contingency fund; limitation of authority to
20 transfer funds in contracted due process services
21 appropriation categories.--

22 (2) In the event that a state attorney or public
23 defender incurs a deficit in a contracted due process services
24 appropriation category, the following steps shall be taken in
25 order:

26 (a) The state attorney or public defender shall first
27 attempt to identify surplus funds from other appropriation
28 categories within his or her office and submit a budget
29 amendment pursuant to chapter 216 to transfer funds from
30 within the office.

31

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

23 (c) If no office indicates that surplus funds are
24 available to alleviate the deficit, the Justice Administrative
25 Commission may request a budget amendment to transfer funds
26 from the contingency fund. Such transfers shall be in
27 accordance with all applicable provisions of chapter 216 and
28 shall be subject to review and approval by the Legislative
29 Budget Commission. The Justice Administrative Commission shall
30 submit the documentation provided by the office explaining the
31 circumstances that led to the deficit and the steps taken by

1 the office and the Justice Administrative Commission to
2 identify surplus funds to the Legislative Budget Commission.

3 Section 20. Section 29.018, Florida Statutes, is
4 amended to read:

5 29.018 Cost sharing of ~~due-process~~ ~~due process~~ costs;
6 legislative intent.--It is the intent of the Legislature to
7 provide state-funded ~~due-process~~ ~~due process~~ services to the
8 state courts system, state attorneys, public defenders, and
9 court-appointed counsel in the most cost-effective and
10 efficient manner. The state courts system, state attorneys,
11 public defenders, and the Justice Administrative Commission on
12 behalf of court-appointed counsel may enter into contractual
13 agreements to share, on a pro rata basis, the costs associated
14 with court reporting services, court interpreter and
15 translation services, court experts, and all other due-process
16 ~~due process~~ services funded by the state pursuant to this
17 chapter. These costs shall be budgeted within the funds
18 appropriated to each of the affected users of services.

19 Section 21. Section 29.0185, Florida Statutes, is
20 created to read:

21 29.0185 Provision of state-funded due-process services
22 to individuals.--Due-process services may not be provided with
23 state revenues to an individual unless:

24 (1) The individual on whose behalf the due-process
25 services are being provided is eligible for court-appointed
26 counsel under s. 27.40, based upon a determination of
27 indigency under s. 27.52, regardless of whether such counsel
28 is appointed; or

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

31

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

3 34.045 Cost recovery; use of the county court for
4 ordinance or special law violations.--

5 (1)(a) In lieu of payment of a filing fee under s.
6 34.041, a filing fee of \$10 shall be paid by a county or
7 municipality when filing a violation of a county or municipal
8 ordinance or a violation of a special law in county court.
9 This fee shall be paid to the clerk of the court for
10 performing court-related functions. A county or municipality
11 is not required to pay more than one filing fee for a single
12 filing against a single defendant which contains multiple
13 alleged violations. A filing fee, other than that imposed
14 under this section, may not be assessed for initiating an
15 enforcement proceeding in county court for a violation of a
16 county or municipal code or ordinance or a violation of a
17 special law. The filing fee does not apply to instances in
18 which a county or a municipality has contracted with the
19 state, or has been delegated by the state, responsibility for
20 enforcing state operations, policies, or requirements under s.
21 125.69, s. 166.0415, or chapter 162.

22 (b) No other filing fee may be assessed for filing the
23 violation in county court. If a person contests the violation
24 in court, the court shall assess \$40 in costs against the
25 nonprevailing party. The county or municipality shall be
26 considered the prevailing party when there is a plea or
27 finding of violation or guilt to any count or lesser included
28 offense of the charge or companion case charges, regardless of
29 adjudication. ~~Costs~~ Cost recovered pursuant to this paragraph
30 shall be deposited into the clerk's fine and forfeiture fund
31 established pursuant to s. 142.01.

1 (c) If the person does not contest the violation in
2 court, or if the county or municipality is the prevailing
3 party, the court shall assess the person or nonprevailing
4 party \$10 for the filing fee provided in paragraph (a), which
5 amount shall be forwarded to the county or municipality.

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

8 34.191 Fines and forfeitures; dispositions.--

9 (1) All fines and forfeitures arising from offenses
10 tried in the county court shall be collected and accounted for
11 by the clerk of the court and, other than the charge provided
12 in s. 318.1215, disbursed in accordance with ss. 28.2402,
13 34.045, 142.01, and 142.03 ~~142.13~~ and subject to the
14 provisions of s. 28.246(5) and (6). Notwithstanding the
15 provisions of this section, all fines and forfeitures arising
16 from operation of the provisions of s. 318.1215 shall be
17 disbursed in accordance with that section.

18 (2) All fines and forfeitures received from violations
19 of municipal ordinances committed within a municipality within
20 the territorial jurisdiction of the county court, other than
21 the charge provided in s. 318.1215, shall be paid monthly to
22 the municipality except as provided in s. 28.2402(2), s.
23 34.045(2), s. 318.21, or s. 943.25. For purposes of this
24 section, a municipality does not include the unincorporated
25 areas, if any, of a government created pursuant to s. 6(e),
26 Art. VIII of the State Constitution.

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

31

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

3 39.0132 Oaths, records, and confidential
4 information.--

5 (3) The clerk shall keep all court records required by
6 this chapter separate from other records of the circuit court.

7 All court records required by this chapter shall not be open
8 to inspection by the public. All records shall be inspected

9 only upon order of the court by persons deemed by the court to
10 have a proper interest therein, except that, subject to the

11 provisions of s. 63.162, a child and the parents of the child
12 and their attorneys, guardian ad litem, law enforcement

13 agencies, and the department and its designees shall always
14 have the right to inspect and copy any official record

15 pertaining to the child. The Justice Administrative Commission
16 may inspect court dockets required by this chapter as

17 necessary to audit compensation of court-appointed attorneys.

18 If the docket is insufficient for purposes of the audit, the
19 commission may petition the court for additional documentation

20 as necessary and appropriate. The court may permit authorized
21 representatives of recognized organizations compiling

22 statistics for proper purposes to inspect and make abstracts
23 from official records, under whatever conditions upon their

24 use and disposition the court may deem proper, and may punish
25 by contempt proceedings any violation of those conditions.

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

28 39.821 Qualifications of guardians ad litem.--

29 (1) Because of the special trust or responsibility
30 placed in a guardian ad litem, the Guardian Ad Litem Program

31 may use any private funds collected by the program, or any

1 state funds so designated, to conduct a security background
2 investigation before certifying a volunteer to serve. A
3 security background investigation must include, but need not
4 be limited to, employment history checks, checks of
5 references, local criminal records checks through local law
6 enforcement agencies, and statewide criminal records checks
7 through the Department of Law Enforcement. Upon request, an
8 employer shall furnish a copy of the personnel record for the
9 employee or former employee who is the subject of a security
10 background investigation conducted under this section. The
11 information contained in the personnel record may include, but
12 need not be limited to, disciplinary matters and the reason
13 why the employee was terminated from employment. An employer
14 who releases a personnel record for purposes of a security
15 background investigation is presumed to have acted in good
16 faith and is not liable for information contained in the
17 record without a showing that the employer maliciously
18 falsified the record. A security background investigation
19 conducted under this section must ensure that a person is not
20 certified as a guardian ad litem if the person has been
21 convicted of, regardless of adjudication, or entered a plea of
22 nolo contendere or guilty to, any offense prohibited under the
23 provisions of the Florida Statutes specified in s. 435.04(2)
24 or under any similar law in another jurisdiction. Before
25 certifying an applicant to serve as a guardian ad litem, the
26 Guardian Ad Litem Program ~~chief judge of the circuit court~~ may
27 request a federal criminal records check of the applicant
28 through the Federal Bureau of Investigation. In analyzing and
29 evaluating the information obtained in the security background
30 investigation, the program must give particular emphasis to
31 past activities involving children, including, but not limited

1 to, child-related criminal offenses or child abuse. The
2 program has the sole discretion in determining whether to
3 certify a person based on his or her security background
4 investigation. The information collected pursuant to the
5 security background investigation is confidential and exempt
6 from s. 119.07(1).

7 Section 26. Section 39.822, Florida Statutes, is
8 amended to read:

9 39.822 Appointment of guardian ad litem for abused,
10 abandoned, or neglected child.--

11 (1) A guardian ad litem shall be appointed by the
12 court at the earliest possible time to represent the child in
13 any child abuse, abandonment, or neglect judicial proceeding,
14 whether civil or criminal. Any person participating in a civil
15 or criminal judicial proceeding resulting from such
16 appointment shall be presumed prima facie to be acting in good
17 faith and in so doing shall be immune from any liability,
18 civil or criminal, that otherwise might be incurred or
19 imposed.

20 (2) In those cases in which the parents are
21 financially able, the parent or parents of the child shall
22 reimburse the court, in part or in whole, for the cost of
23 provision of guardian ad litem services. Reimbursement to the
24 individual providing guardian ad litem services shall not be
25 contingent upon successful collection by the court from the
26 parent or parents.

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

29 (a) An agency, defined in chapter 119, shall allow the
30 guardian ad litem to inspect and copy records related to the
31 best interests of the child who is the subject of the

1 appointment, including, but not limited to, records made
2 confidential or exempt from s. 119.07(1) or s. 24(a), Art. I
3 of the State Constitution. The guardian ad litem shall
4 maintain the confidential or exempt status of any records
5 shared by an agency under this paragraph.

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

11
12 For the purposes of this subsection, the term "records related
13 to the best interests of the child" includes, but is not
14 limited to, medical, mental health, substance abuse, child
15 care, education, law enforcement, court, social services, and
16 financial records.

17 (4)(3) The guardian ad litem or the program
18 representative shall review all disposition recommendations
19 and changes in placements, and must be present at all critical
20 stages of the dependency proceeding or submit a written report
21 of recommendations to the court. Written reports must be filed
22 with the court and served on all parties whose whereabouts are
23 known at least 72 hours prior to the hearing.

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

26 40.29 Payment of due process costs.--

27 (1)(a) Each clerk of the circuit court, on behalf of
28 the courts, the state attorney, ~~and~~ the public defender, and
29 court-appointed counsel, shall forward to the Justice
30 Administrative Commission, by county, a quarterly estimate of
31 funds necessary to pay for ordinary witnesses, including, but

1 not limited to, witnesses in civil traffic cases and witnesses
2 of the state attorney, public defender, court-appointed
3 counsel, and persons determined to be indigent for costs
4 ~~except expert witnesses paid pursuant to a contract or other~~
5 ~~professional services agreement, pursuant to ss. 29.005 and~~
6 ~~29.006. Each quarter of the state fiscal year, the commission,~~
7 based upon the estimates, shall advance funds to each clerk to
8 pay for these ordinary witnesses from state funds specifically
9 appropriated for the payment of ordinary witnesses.

10 (b) Each clerk of the circuit court shall forward to
11 the Office of the State Courts Administrator, by county, a
12 quarterly estimate of funds necessary to pay juror
13 compensation.

14 Section 28. Section 40.355, Florida Statutes, is
15 created to read:

16 40.355 Accounting and payment to public defenders and
17 state attorneys.--The clerk of the court shall, within 2 weeks
18 after the last day of the state's quarterly fiscal period,
19 render to the state attorney and the public defender in each
20 circuit a full statement of accounts for moneys received and
21 disbursed under this chapter.

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

25 43.16 Justice Administrative Commission; membership,
26 powers and duties.--

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

29 (a) The maintenance of a central state office for
30 administrative services and assistance when possible to and on
31 behalf of the state attorneys and public defenders of Florida,

1 the office of capital collateral representative of Florida,
 2 and the guardian ad litem program ~~Judicial Qualifications~~
 3 ~~Commission~~.

4 (b) Each state attorney and public defender and the
 5 guardian ad litem program ~~Judicial Qualifications Commission~~
 6 shall continue to prepare necessary budgets, vouchers which
 7 represent valid claims for reimbursement by the state for
 8 authorized expenses, and other things incidental to the proper
 9 administrative operation of the office, such as revenue
 10 transmittals to the Chief Financial Officer and automated
 11 systems plans, but will forward same to the commission for
 12 recording and submission to the proper state officer. However,
 13 when requested by a state attorney, ~~or~~ a public defender, ~~or~~
 14 the guardian ad litem program ~~Judicial Qualifications~~
 15 ~~Commission~~, the commission will either assist in the
 16 preparation of budget requests, voucher schedules, and other
 17 forms and reports or accomplish the entire project involved.

18 (6) The provisions contained in this section shall be
 19 supplemental to those of chapter 27, relating to state
 20 attorneys and public defenders; to those of chapter 39 s-
 21 ~~43.20~~, relating to the guardian ad litem program ~~Judicial~~
 22 ~~Qualifications Commission~~; or to other laws pertaining hereto.

23 (7) Chapter 120 does not apply to the Justice
 24 Administrative Commission.

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

27 43.26 Chief judge of circuit; selection; powers.--

28 (6) The chief judge of each circuit is charged by s.
 29 2(d), Art. V of the State Constitution and this section with
 30 the authority to promote the prompt and efficient
 31 administration of justice in the courts over which he or she

1 is chief judge. The clerks of court provide court-related
2 functions that are essential to the orderly administration of
3 the judicial branch. The chief judge of each circuit, after
4 consultation with the clerk of court, shall determine the
5 priority of services provided by the clerk of court to the
6 trial court. The clerk of court shall manage the performance
7 of such services in a method or manner that is consistent with
8 statute, court rule, or administrative order.

9 Section 31. Paragraph (b) of subsection (4) of section
10 44.102, Florida Statutes, is amended to read:

11 44.102 Court-ordered mediation.--

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

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

24 Section 32. Subsection (3) of section 44.103, Florida
25 Statutes, is amended to read:

26 44.103 Court-ordered, nonbinding arbitration.--

27 (3) Arbitrators shall be selected and compensated in
28 accordance with rules adopted by the Supreme Court.
29 Arbitrators shall be compensated by the parties, or, upon a
30 finding by the court that a party is indigent, an arbitrator
31 may be partially or fully compensated from state funds

1 according to the party's present ability to pay. At no time
2 may an arbitrator charge more than \$1,500 per diem, unless the
3 parties agree otherwise. Prior to approving the use of state
4 funds to reimburse an arbitrator, the court must ensure that
5 the party reimburses the portion of the total cost that the
6 party is immediately able to pay and that the party has agreed
7 to a payment plan established by the clerk of the court that
8 will fully reimburse the state for the balance of all state
9 costs for both the arbitrator and any costs of administering
10 the payment plan and any collection efforts that may be
11 necessary in the future. Whenever possible, qualified
12 individuals who have volunteered their time to serve as
13 arbitrators shall be appointed. If an arbitration program is
14 funded pursuant to s. 44.108, volunteer arbitrators shall be
15 entitled to be reimbursed pursuant to s. 112.061 for all
16 actual expenses necessitated by service as an arbitrator.

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

19 44.108 Funding of mediation and arbitration.--

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

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

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

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

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

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

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

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

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

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

16 Section 35. Section 57.082, Florida Statutes, is
17 created to read:

18 57.082 Determination of civil indigent status.--

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

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

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

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

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

10 4. All liabilities and debts.

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

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

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

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

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

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

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

16 1. The applicant is not indigent.

17 2. The applicant is indigent.

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

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

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

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

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

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

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

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

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

28 3. When the applicant retained private counsel.

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

31

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

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

6 1. The applicant is not indigent.

7 2. The applicant is indigent.

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

23 (6) FINANCIAL DISCREPANCIES; FRAUD; FALSE
24 INFORMATION.--

25 (a) If the court learns of discrepancies between the
26 application and the actual financial status of the person
27 found to be indigent, the court shall determine whether the
28 status and any relief provided as a result of that status
29 shall be revoked. The person may be heard regarding the
30 information learned by the court. If the court, based on the
31 information, determines that the person is not indigent, the

1 court shall revoke the provision of any relief under this
2 section.

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

15 (c) A person who knowingly provides false information
16 to the clerk or the court in seeking a determination of
17 indigent status under this section commits a misdemeanor of
18 the first degree, punishable as provided in s. 775.082 or s.
19 775.083.

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

22 92.142 Witnesses; pay.--

23 (1) Witnesses in all cases, civil and criminal, in all
24 courts, now or hereafter created, and witnesses summoned
25 before any arbitrator or general or special magistrate
26 appointed by the court shall receive for each day's actual
27 attendance \$5 and also 6 cents per mile for actual distance
28 traveled to and from the courts. A witness in a criminal case
29 required to appear in a county other than the county of his or
30 her residence and residing more than 50 miles from the
31 location of the trial shall be entitled to per diem and travel

1 expenses at the same rate provided for state employees under
2 s. 112.061, in lieu of any other witness fee ~~at the discretion~~
3 ~~of the court.~~

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

7 92.231 Expert witnesses; fee.--

8 (2) Any expert or skilled witness who shall have
9 testified in any cause shall be allowed a witness fee
10 including the cost of any exhibits used by such witness in an
11 amount agreed to by the parties, and the same shall be taxed
12 as costs. In instances where services are provided for the
13 state, including for state-paid private court-appointed
14 counsel, payment from state funds shall be in accordance with
15 standards adopted by the Legislature ~~after receiving~~
16 ~~recommendations from the Article V Indigent Services Advisory~~
17 ~~Board.~~

18 (3) In a criminal case in which the state or an
19 indigent defendant requires the services of an expert witness
20 whose opinion is relevant to the issues of the case, the
21 expert witness shall be compensated in accordance with
22 standards adopted by the Legislature ~~after receiving~~
23 ~~recommendations from the Article V Indigent Services Advisory~~
24 ~~Board.~~

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

27 110.205 Career service; exemptions.--

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

30 (y) All officers and employees of the Justice
31 Administrative Commission, Office of the State Attorney,

1 Office of the Public Defender, regional offices of capital
2 collateral counsel, and Statewide Guardian Ad Litem Office,
3 including the circuit guardian ad litem programs.

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

6 116.01 Payment of public funds into treasury.--

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

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

20 116.21 Unclaimed moneys; limitation.--

21 (1) The sheriffs and clerks of the courts of the
22 various counties of the state are authorized at their
23 discretion on or before September 25 of each and every year
24 hereafter to pay into the fine and forfeiture fund of their
25 respective counties, or the fine and forfeiture fund created
26 under s. 142.01, any or all unclaimed moneys deposited or
27 collected by them in their official capacity, which unclaimed
28 moneys came into their hands prior to January 1 of the
29 preceding year and for which moneys claim has not been made.
30 Any unclaimed moneys collected or deposited by the clerk of
31 the circuit court in the course of the clerk's court-related

1 activities may be processed under this chapter; however, the
2 clerk must pay for the cost of publication of the list of
3 unclaimed court-related funds. Any unclaimed court-related
4 funds collected or deposited by the clerk which remain
5 unclaimed must be deposited into the fine and forfeiture fund
6 established under s. 142.01.

7 (4) Except for the cost of publishing the notice for
8 the clerk's unclaimed court-related moneys, the cost of
9 publishing the notices as required by subsection (2) shall be
10 paid by the county commissioners, and the sheriff or the clerk
11 shall receive as compensation the regular fee allowed by
12 statute for the collection of fines, fees, and costs adjudged
13 to the state upon the amounts remitted to the fine and
14 forfeiture fund. Upon such payment to the fine and forfeiture
15 fund, the sheriff or clerk shall be released and discharged
16 from any and all further responsibility or liability in
17 connection therewith.

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

20 119.07 Inspection and copying of records;
21 photographing public records; fees; exemptions.--

22 (6)

23 (gg)1. Until January 1, 2007 ~~2006~~, if a social
24 security number, made confidential and exempt pursuant to s.
25 119.0721, created pursuant to s. 1, ch. 2002-256, passed
26 during the 2002 regular legislative session, or a complete
27 bank account, debit, charge, or credit card number made exempt
28 pursuant to paragraph (dd), created pursuant to s. 1, ch.
29 2002-257, passed during the 2002 regular legislative session,
30 is or has been included in a court file, such number may be
31 included as part of the court record available for public

1 inspection and copying unless redaction is requested by the
2 holder of such number, or by the holder's attorney or legal
3 guardian, in a signed, legibly written request specifying the
4 case name, case number, document heading, and page number. The
5 request must be delivered by mail, facsimile, electronic
6 transmission, or in person to the clerk of the circuit court.
7 The clerk of the circuit court does not have a duty to inquire
8 beyond the written request to verify the identity of a person
9 requesting redaction. A fee may not be charged for the
10 redaction of a social security number or a bank account,
11 debit, charge, or credit card number pursuant to such request.

12 2. Any person who prepares or files a document to be
13 recorded in the official records by the county recorder as
14 provided in chapter 28 may not include a person's social
15 security number or complete bank account, debit, charge, or
16 credit card number in that document unless otherwise expressly
17 required by law. Until January 1, 2007 ~~2006~~, if a social
18 security number or a complete bank account, debit, charge or
19 credit card number is or has been included in a document
20 presented to the county recorder for recording in the official
21 records of the county, such number may be made available as
22 part of the official record available for public inspection
23 and copying. Any person, or his or her attorney or legal
24 guardian, may request that a county recorder remove from an
25 image or copy of an official record placed on a county
26 recorder's publicly available Internet website, or a publicly
27 available Internet website used by a county recorder to
28 display public records outside the office or otherwise made
29 electronically available outside the county recorder's office
30 to the general public, his or her social security number or
31 complete account, debit, charge, or credit card number

1 contained in that official record. Such request must be
2 legibly written, signed by the requester, and delivered by
3 mail, facsimile, electronic transmission, or in person to the
4 county recorder. The request must specify the identification
5 page number of the document that contains the number to be
6 redacted. The county recorder does not have a duty to inquire
7 beyond the written request to verify the identity of a person
8 requesting redaction. A fee may not be charged for redacting
9 such numbers.

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

14 4. On January 1, 2007 ~~2006~~, and thereafter, the clerk
15 of the circuit court and the county recorder must keep
16 complete bank account, debit, charge, and credit card numbers
17 exempt as provided for in paragraph (dd), and must keep social
18 security numbers confidential and exempt as provided for in s.
19 119.0721, without any person having to request redaction.

20 Section 42. Section 142.01, Florida Statutes, is
21 amended to read:

22 142.01 Fine and forfeiture fund; clerk of the circuit
23 court.--There shall be established by the clerk of the circuit
24 court in each county of this state a separate fund to be known
25 as the fine and forfeiture fund for use by the clerk of the
26 circuit court in performing court-related functions. The fund
27 shall consist of the following:

28 (1) Fines and penalties pursuant to ss. 28.2402(2),
29 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

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

1 (3) Court costs pursuant to ss. 28.2402(1)(b),
2 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and
3 (11)(a), and 938.05(3).

4 (4) Proceeds from forfeited bail bonds, unclaimed
5 bonds, unclaimed moneys, or recognizances pursuant to ss.
6 321.05(4)(a), 372.72(1), and 903.26(3)(a).

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

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

10

11 Notwithstanding the provisions of this section, all fines and
12 forfeitures arising from operation of the provisions of s.
13 318.1215 shall be disbursed in accordance with that section.

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

16 213.13 Electronic remittance and distribution of funds
17 collected by clerks of the court.--

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

24 Section 44. Section 219.07, Florida Statutes, is
25 amended to read:

26 219.07 Disbursements.--Each officer shall, not later
27 than 7 working days from the close of the week in which the
28 officer received the funds, distribute the money which is
29 required to be paid to other officers, agencies, funds, or
30 persons entitled to receive the same; provided, that
31 distributions or partial distributions may be made more

1 frequently; and provided further, that money required by law
2 or court order, or by the purpose for which it was collected,
3 to be held and disbursed for a particular purpose in a manner
4 different from that set out herein shall be held and disbursed
5 accordingly. Further, money collected by the county officer on
6 behalf of the state, except for money collected by the clerk
7 of the court as part of court-related functions, shall be
8 deposited directly to the account of the State Treasury not
9 later than 7 working days from the close of the week in which
10 the officer received the funds. The clerk of the court, when
11 collecting money as part of the clerk's court-related
12 functions, must remit that money as required under s. 28.245.

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

15 219.075 Investment of surplus funds by county
16 officers.--

17 (1)(a) Except when another procedure is prescribed by
18 law or by ordinance as to particular funds, a tax collector or
19 any other county officer having, receiving, or collecting any
20 money, either for his or her office or on behalf of and
21 subject to subsequent distribution to another officer of state
22 or local government, while such money is in excess of that
23 required to meet current expenses or is pending distribution,
24 shall invest such money, without limitation, as provided in s.
25 218.415.

26 (b) These investments shall be planned so as not to
27 slow the normal distribution of the subject funds. The
28 investment earnings shall be reasonably apportioned and
29 allocated and shall be credited to the account of, and paid
30 to, the office or distributee, together with the principal on
31 which such earnings accrued.

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

5 Section 46. Section 318.121, Florida Statutes, is
6 amended to read:

7 318.121 Preemption of additional fees, fines,
8 surcharges, and costs.--Notwithstanding any general or special
9 law, or municipal or county ordinance, additional fees, fines,
10 surcharges, or costs, other than the court costs and
11 surcharges assessed under s. 318.18(11) and (13), may not be
12 added to the civil traffic penalties assessed in this chapter.

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

16 318.18 Amount of civil penalties.--The penalties
17 required for a noncriminal disposition pursuant to s. 318.14
18 are as follows:

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

26 (a) May impose by ordinance a surcharge of up to \$15
27 for any infraction or violation to fund state court
28 facilities. The court shall not waive this surcharge. Up to 25
29 percent of the revenue from such surcharge may be used to
30 support local law libraries provided that the county or unit
31 of local government provides a level of service equal to that

1 provided prior to July 1, 2004, which shall include the
2 continuation of library facilities located in or near the
3 county courthouse or annexes.

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

23
24 A county may not impose both of the surcharges authorized
25 under paragraphs (a) and (b) concurrently. The clerk of court
26 shall report, no later than 30 days after the end of the
27 quarter, the amount of funds collected under this subsection
28 during each quarter of the fiscal year. The clerk shall submit
29 the report, in a format developed by the Office of State
30 Courts Administrator, to the chief judge of the circuit, the

31

1 Governor, the President of the Senate, and the Speaker of the
2 House of Representatives.

3 (14) In addition to any penalties imposed for
4 noncriminal traffic infractions under chapter 318 or imposed
5 for criminal violations listed in s. 318.17, any unit of local
6 government which is consolidated as provided by s. 9, Art.
7 VIII of the State Constitution of 1885, as preserved by s.
8 6(e), Art. VIII of the State Constitution of 1968, and which
9 is granted the authority in the State Constitution to exercise
10 all the powers of a municipal corporation, and any unit of
11 local government operating under a home rule charter adopted
12 pursuant to ss. 10, 11, and 24, Art. VIII of the State
13 Constitution of 1885, as preserved by s. 6(e), Art. VIII of
14 the State Constitution of 1968, which is granted the authority
15 in the State Constitution to exercise all the powers conferred
16 now or hereafter by general law upon municipalities, may
17 impose by ordinance a surcharge of up to \$15 for any
18 infraction or violation. Revenue from the surcharge shall be
19 transferred to such unit of local government for the purpose
20 of replacing fine revenue deposited into the clerk's fine and
21 forfeiture fund under s. 142.01. The court may not waive this
22 surcharge. Proceeds from the imposition of the surcharge
23 authorized in this subsection shall not be used for the
24 purpose of securing payment of the principal and interest on
25 bonds. This subsection, and any surcharge imposed pursuant to
26 this subsection, shall stand repealed on September 30, 2007.

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

30 318.21 Disposition of civil penalties by county
31 courts.--All civil penalties received by a county court

1 pursuant to the provisions of this chapter shall be
2 distributed and paid monthly as follows:

3 (2) Of the remainder:

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

8 2. If the violation occurred within a municipality,
9 50.8 percent shall be paid to that municipality and 5.6
10 percent shall be deposited into the fine and forfeiture trust
11 fund established pursuant to s. 142.01.

12 3. If the violation occurred within the unincorporated
13 area of a county, including the unincorporated areas, if any,
14 of a government created pursuant to s. 6(e), Art. VIII of the
15 State Constitution, that is not within a special improvement
16 district of the Seminole Indian Tribe or Miccosukee Indian
17 Tribe, 56.4 percent shall be deposited into the fine and
18 forfeiture fund established pursuant to s. 142.01.

19 Section 49. Section 318.31, Florida Statutes, is
20 amended to read:

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

30 Section 50. Subsection (1) of section 318.32, Florida
31 Statutes, is amended to read:

1 | 318.32 Jurisdiction; limitations.--

2 | (1) Hearing officers shall be empowered to accept
3 | pleas from and decide the guilt or innocence of any person,
4 | adult or juvenile, charged with any civil traffic infraction
5 | and shall be empowered to adjudicate or withhold adjudication
6 | of guilt in the same manner as a county court judge under the
7 | statutes, rules, and procedures presently existing or as
8 | subsequently amended, except that hearing officers shall not:

9 | (a) Have the power to hold a defendant in contempt of
10 | court, but shall be permitted to file a motion for order of
11 | contempt with the appropriate state trial court judge;

12 | (b) Hear a case involving a crash resulting in injury
13 | or death; ~~or~~

14 | (c) Hear a criminal traffic offense case or a case
15 | involving a civil traffic infraction issued in conjunction
16 | with a criminal traffic offense; ~~or-~~

17 | (d) Have the power to suspend a defendant's driver's
18 | license pursuant to s. 316.655(2).

19 | Section 51. Section 318.325, Florida Statutes, is
20 | amended to read:

21 | 318.325 Jurisdiction and procedure for parking
22 | infractions.--Any county or municipality may adopt an
23 | ordinance that allows the county or municipality to refer
24 | cases involving the violation of a county or municipal parking
25 | ordinance to a hearing officer ~~funded by the county or~~
26 | ~~municipality~~. Notwithstanding the provisions of ss. 318.14 and
27 | 775.08(3), any parking violation shall be deemed to be an
28 | infraction as defined in s. 318.13(3). However, the violation
29 | must be enforced and disposed of in accordance with the
30 | provisions of general law applicable to parking violations and
31 | with the charter or code of the county or municipality where

1 the violation occurred. The clerk of the court or the
2 designated traffic violations bureau must collect and
3 distribute the fines, forfeitures, and court costs assessed
4 under this section.

5 Section 52. Section 322.29, Florida Statutes, is
6 amended to read:

7 322.29 Surrender and return of license.--

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

19 (2) The provisions of subsection (1) to the contrary
20 notwithstanding, no examination is required for the return of
21 a license suspended under s. 318.15 or s. 322.245 unless an
22 examination is otherwise required by this chapter. Every
23 person applying for the return of a license suspended under s.
24 318.15 or s. 322.245 shall present to the department
25 certification from the court that he or she has complied with
26 all obligations and penalties imposed on him or her pursuant
27 to s. 318.15 or, in the case of a suspension pursuant to s.
28 322.245, that he or she has complied with all directives of
29 the court and the requirements of s. 322.245 and shall pay to
30 the department a nonrefundable service fee of ~~\$47.50~~\$35, of
31 which ~~\$37.50~~\$25 shall be deposited into the General Revenue

1 Fund and \$10 shall be deposited into the Highway Safety
2 Operating Trust Fund. If reinstated by the clerk of the court
3 or tax collector, ~~\$37.50~~^{\$25} shall be retained and \$10 shall
4 be remitted to the Department of Revenue for deposit into the
5 Highway Safety Operating Trust Fund. However, the service fee
6 is not required if the person is required to pay a \$35 fee or
7 \$60 fee under the provisions of s. 322.21.

8 Section 53. Section 372.72, Florida Statutes, is
9 amended to read:

10 372.72 Disposition of fines, penalties, and
11 forfeitures.--

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

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

26 Section 54. Subsection (8) of section 903.26, Florida
27 Statutes, is amended to read:

28 903.26 Forfeiture of the bond; when and how directed;
29 discharge; how and when made; effect of payment.--

30 (8) If the defendant is arrested and returned to the
31 county of jurisdiction of the court prior to judgment, the

1 clerk, upon affirmation by the sheriff or the chief
2 correctional officer, shall, without further order of the
3 court, discharge the forfeiture of the bond. However, if the
4 surety agent fails to pay the costs and expenses incurred in
5 returning the defendant to the county of jurisdiction, the
6 clerk shall not discharge the forfeiture of the bond. If the
7 surety agent and the sheriff ~~state attorney~~ fail to agree on
8 the amount of said costs, then the court, after notice to the
9 sheriff and the state attorney, shall determine the amount of
10 the costs.

11 Section 55. Section 938.19, Florida Statutes, is
12 amended to read:

13 938.19 Teen courts.--

14 (1) Notwithstanding s. 318.121, in each county in
15 which a teen court has been created, the board of county
16 commissioners or local governing body may adopt a mandatory
17 cost to be assessed in specific cases by incorporating by
18 reference the provisions of this section in a county
19 ordinance. Assessments collected by the clerk of the circuit
20 court under this subsection shall be deposited into an account
21 specifically for the operation and administration of the teen
22 court.

23 (2) A sum of up to \$3 shall be assessed as a court
24 cost in the circuit and county court in the county against
25 each person who pleads guilty or nolo contendere to, or is
26 convicted of, regardless of adjudication, a violation of a
27 criminal law or a municipal ordinance or county ordinance or
28 who pays a fine or civil penalty for any violation of chapter
29 316. Any person whose adjudication is withheld under s.
30 318.14(9) or (10) shall also be assessed the cost.

31

1 (3) The assessment for court costs shall be assessed
2 in addition to any fine or civil penalty or other court cost
3 and may not be deducted from the proceeds of that portion of
4 any fine or civil penalty which is received by a municipality
5 in the county or by the county in accordance with ss. 316.660
6 and 318.21. The assessment shall be specifically added to any
7 civil penalty paid for a violation of chapter 316, regardless
8 of whether the penalty is paid by mail, paid in person without
9 request for a hearing, or paid after hearing and determination
10 by the court. However, the assessment may not be made against
11 a person for a violation of any state law, county ordinance,
12 or municipal ordinance relating to the parking of vehicles,
13 with the exception of a violation of the handicapped parking
14 laws.

15 (4)(a) The clerk of the circuit court shall collect
16 the assessments for court costs established in this section
17 and shall remit the assessments to the teen court monthly.

18 (b) The clerk of the circuit court shall withhold 5
19 percent of the assessments collected, which shall be retained
20 as fee income of the office of the clerk of the circuit court.

21 (5) A teen court that receives the cost assessments
22 established by the adopted county ordinance must account for
23 all funds that have been deposited into the designated account
24 in a written report to the board of county commissioners. The
25 report must be given to the commissioners by August 1 of each
26 year or by a date required by the commissioners.

27 (6) A teen court may be administered by a nonprofit
28 organization, a law enforcement agency, the court
29 administrator, the clerk of the court, or another similar
30 agency authorized by the board of county commissioners.

31

1 (7) A teen court administered in a county that adopts
2 an ordinance to assess court costs under this section may not
3 receive court costs collected under s. 939.185(1)(a)4.
4 ~~Counties are hereby authorized to fund teen courts.~~

5 Section 56. Paragraph (a) of subsection (1) of section
6 939.185, Florida Statutes, is amended to read:

7 939.185 Assessment of additional court costs.--

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

16 1. Twenty-five percent of the amount collected shall
17 be allocated to fund innovations to supplement state funding
18 for the elements of the state courts system identified in s.
19 29.004 and county funding for local requirements under s.
20 29.008(2)(a)2.

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

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

27 4. Twenty-five percent of the amount collected shall
28 be used as determined by the board of county commissioners to
29 support teen court programs, except as provided in s.
30 938.19(7), juvenile assessment centers, and other juvenile
31 alternative programs.

1
2 Each county receiving funds under this section shall report
3 the amount of funds collected pursuant to this section and an
4 itemized list of expenditures for all authorized programs and
5 activities. The report shall be submitted in a format
6 developed by the Supreme Court to the Governor, the Chief
7 Financial Officer, the President of the Senate, and the
8 Speaker of the House of Representatives on a quarterly basis
9 beginning with the quarter ending September 30, 2004.

10 Quarterly reports shall be submitted no later than 30 days
11 after the end of the quarter. Any unspent funds at the close
12 of the county fiscal year allocated under subparagraphs 2.,
13 3., and 4., shall be transferred for use pursuant to
14 subparagraph 1.

15 Section 57. Section 903.28, Florida Statutes, is
16 amended to read:

17 903.28 Remission of forfeiture; conditions.--

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

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

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

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

26 (4) If the defendant surrenders or is apprehended
27 within 270 days after forfeiture, the court, on motion at a
28 hearing upon notice having been given to the clerk of the
29 circuit court ~~county attorney~~ and the state attorney as
30 required in subsection (8), shall direct remission of up to,
31 but not more than, 90 percent of a forfeiture if the surety

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

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

31

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

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

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

1 granted on the condition of payment of costs, unless the
2 ground for remission is that there was no breach of the bond.

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

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

11 (11) Upon remission of bond pursuant to this section,
12 the clerk of the circuit court shall withhold any unpaid
13 finances, fees, service charges, and court costs imposed as a
14 matter of law or ordered by the court.

15 Section 58. Section 916.115, Florida Statutes, is
16 amended to read:

17 916.115 Appointment of experts.--

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

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

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

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

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

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

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

30 4. An expert retained by the defendant who is
31 represented by private counsel appointed under s. 27.5303

1 shall be paid by the Justice Administrative Commission from
2 funds specifically appropriated for such expenses.

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

10 (b) State employees shall be paid expenses pursuant to
11 s. 112.061.

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

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

18 Section 59. Subsections (2), (3), and (4) of section
19 916.12, Florida Statutes, are amended to read:

20 916.12 Mental competence to proceed.--

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

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

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

14 (a) Appreciate the charges or allegations against the
15 defendant;

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

19 (c) Understand the adversarial nature of the legal
20 process;

21 (d) Disclose to counsel facts pertinent to the
22 proceedings at issue;

23 (e) Manifest appropriate courtroom behavior; and

24 (f) Testify relevantly;

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

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

1 relating to treatment, the examining expert ~~experts~~ shall
2 specifically report on:

3 (a) The mental illness causing the incompetence;

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

7 (c) The availability of acceptable treatment and, if
8 treatment is available in the community, the expert shall so
9 state in the report; and

10 (d) The likelihood of the defendant's attaining
11 competence under the treatment recommended, an assessment of
12 the probable duration of the treatment required to restore
13 competence, and the probability that the defendant will attain
14 competence to proceed in the foreseeable future.

15 Section 60. Subsection (7) of section 916.301, Florida
16 Statutes, is amended to read:

17 916.301 Appointment of experts.--

18 (7) Expert witnesses appointed by the court to
19 evaluate the mental condition of a defendant in a criminal
20 case shall be allowed reasonable fees for services rendered as
21 evaluators and as witnesses, which shall be paid by the court
22 ~~county in which the indictment was found or the information or~~
23 ~~affidavit was filed~~. State employees shall be paid expenses
24 pursuant to s. 112.061. The fees shall be taxed as costs in
25 the case. In order for the experts to be paid for the services
26 rendered, the reports and testimony must explicitly address
27 each of the factors and follow the procedures set out in this
28 chapter and in the Florida Rules of Criminal Procedure.

29 Section 61. Section 939.185, Florida Statutes, is
30 amended to read:

31

1 939.185 Assessment of additional court costs and
2 surcharges.--

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

11 1. Twenty-five percent of the amount collected shall
12 be allocated to fund innovations to supplement state funding
13 for the elements of the state courts system identified in s.
14 29.004 and county funding for local requirements under s.
15 29.008(2)(a)2.

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

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

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

26
27 Each county receiving funds under this section shall report
28 the amount of funds collected pursuant to this section and an
29 itemized list of expenditures for all authorized programs and
30 activities. The report shall be submitted in a format
31 developed by the Supreme Court to the Governor, the Chief

1 Financial Officer, the President of the Senate, and the
2 Speaker of the House of Representatives on a quarterly basis
3 beginning with the quarter ending September 30, 2004.
4 Quarterly reports shall be submitted no later than 30 days
5 after the end of the quarter. Any unspent funds at the close
6 of the county fiscal year allocated under subparagraphs 2.,
7 3., and 4., shall be transferred for use pursuant to
8 subparagraph 1.

9 (b) The disbursement of costs collected under this
10 section shall be subordinate in priority order of disbursement
11 to all other state-imposed costs authorized in this chapter,
12 restitution or other compensation to victims, and child
13 support payments.

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

17 (3) In addition to the court costs imposed under
18 subsection (1) and any other cost, fine, or penalty imposed by
19 law, any unit of local government which is consolidated as
20 provided by s. 9, Art. VIII of the State Constitution of 1885,
21 as preserved by s. 6(e), Art. VIII of the State Constitution
22 of 1968, and which is granted the authority in the State
23 Constitution to exercise all the powers of a municipal
24 corporation, and any unit of local government operating under
25 a home rule charter adopted pursuant to ss. 10, 11, and 24,
26 Art. VIII of the State Constitution of 1885, as preserved by
27 s. 6(e), Art. VIII of the State Constitution of 1968, and
28 which is granted the authority in the State Constitution to
29 exercise all the powers conferred now or hereafter by general
30 law upon municipalities, may impose by ordinance a surcharge
31 in the amount of \$85 to be imposed by the court when a person

1 pleads guilty or nolo contendere to, or is found guilty of,
2 any felony, misdemeanor, or criminal traffic offense under the
3 laws of this state. Revenue from the surcharge shall be
4 transferred to such unit of local government for the purpose
5 of replacing fine revenue deposited into the clerk's fine and
6 forfeiture fund under s. 142.01. The court may not waive this
7 surcharge. Proceeds from the imposition of the surcharge
8 authorized in this subsection shall not be used for the
9 purpose of securing payment of the principal and interest on
10 bonds. This subsection, and any surcharge imposed pursuant to
11 this subsection, shall stand repealed on September 30, 2007.

12 Section 62. Subsection (2) of section 938.29, Florida
13 Statutes, is amended to read:

14 938.29 Legal assistance; lien for payment of
15 attorney's fees or costs.--

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

19 1. Has received any assistance from any public
20 defender of the state, from any special assistant public
21 defender, or from any conflict attorney; or

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

26
27 Such lien constitutes a claim against the defendant-recipient
28 or parent and his or her estate, enforceable according to law.

29 (b) A judgment showing the name and residence of the
30 defendant-recipient or parent shall be recorded in the public
31 record, without cost, by ~~filed for record in the office of the~~

1 clerk of the circuit court in the county where the
2 defendant-recipient or parent resides and in each county in
3 which such defendant-recipient or parent then owns or later
4 acquires any property. Such judgments shall be enforced on
5 behalf of the state by the clerk of the circuit court of the
6 county in which assistance was rendered.

7 Section 63. Section 939.06, Florida Statutes, is
8 amended to read:

9 939.06 Acquitted defendant not liable for costs.--

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

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

25 Section 64. Subsection (2) of section 985.05, Florida
26 Statutes, is amended, and subsection (5) is added to that
27 section, to read:

28 985.05 Court records.--

29 (2) The clerk shall keep all official records required
30 by this section separate from other records of the circuit
31 court, except those records pertaining to motor vehicle

1 | violations, which shall be forwarded to the Department of
2 | Highway Safety and Motor Vehicles. Except as provided in ss.
3 | 943.053 and 985.04(4), official records required by this part
4 | are not open to inspection by the public, but may be inspected
5 | only upon order of the court by persons deemed by the court to
6 | have a proper interest therein, except that a child and the
7 | parents, guardians, or legal custodians of the child and their
8 | attorneys, law enforcement agencies, the Department of
9 | Juvenile Justice and its designees, the Parole Commission, ~~and~~
10 | the Department of Corrections, and the Justice Administrative
11 | Commission shall always have the right to inspect and copy any
12 | official record pertaining to the child. The court may permit
13 | authorized representatives of recognized organizations
14 | compiling statistics for proper purposes to inspect, and make
15 | abstracts from, official records under whatever conditions
16 | upon the use and disposition of such records the court may
17 | deem proper and may punish by contempt proceedings any
18 | violation of those conditions.

19 | (5) This part does not prohibit a circuit court from
20 | providing a restitution order containing the information
21 | prescribed in s. 985.201(4)(c) to collection court or a
22 | private collection agency for the sole purpose of collecting
23 | unpaid restitution ordered in a case in which the circuit
24 | court has retained jurisdiction over the child and the child's
25 | parent or legal guardian. The collection court or private
26 | collection agency shall maintain the confidential status of
27 | the information to the extent such confidentiality is provided
28 | by law.

29 | Section 65. Paragraph (c) of subsection (4) of section
30 | 985.201, Florida Statutes, is amended to read:

31 | 985.201 Jurisdiction.--

1 (4)
2 (c) The court may retain jurisdiction over a child and
3 the child's parent or legal guardian whom the court has
4 ordered to pay restitution until the restitution order is
5 satisfied ~~or until the court orders otherwise. To retain~~
6 jurisdiction, the court must enter a restitution order, which
7 is separate from any disposition or order of commitment, on or
8 prior to the date that ~~If the court retains such jurisdiction~~
9 ~~after the date upon which~~ the court's jurisdiction would cease
10 under this section, ~~it shall do so solely for the purpose of~~
11 enforcing the restitution order. The contents of the
12 restitution order shall be limited to the child's name and
13 address; the name and address of the parent or legal guardian;
14 the name and address of the payee; the case number; the date
15 and amount of restitution ordered; any amount of restitution
16 paid; the amount of restitution due and owing; and a notation
17 that costs, interest, penalties, and attorney's fees may also
18 be due and owing. The terms of the restitution order are
19 subject to the provisions of s. 775.089(5).

20 Section 66. Section 92.152, Florida Statutes, is
21 created to read:

22 92.152 Compensation to traffic court witnesses.--Any
23 party who secures the attendance of a witness in traffic court
24 shall bear all costs of calling the witness, including witness
25 fees. If the witness is required to testify on behalf of the
26 prosecution, the office of the state attorney of the
27 respective judicial circuit shall pay the fees and costs of
28 calling the witness.

29 Section 67. Recovery of expenditures for state-funded
30 services.--The trial court administrator of each circuit shall
31 recover expenditures for state-funded services when those

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

14 Section 68. (1)(a) The Legislature finds that the use
15 of estimates of prior-year expenditures to establish maximum
16 annual budgets for the county fiscal year 2004-2005 resulted
17 in maximum annual budgets for some clerks of court which were
18 less than the amounts would have been if actual prior-year
19 expenditures had been used.

20 (b) The Legislature further finds that the clerks of
21 court perform duties critical to the operations of the
22 judicial branch and that future maximum annual budgets for the
23 clerks of court are based in part on their prior-year budgets.

24 (c) The Legislature further finds that the difference
25 between establishing the maximum annual budget using estimated
26 prior-year expenditures and using actual prior-year
27 expenditures was significant for the Clerk of Court for the
28 Eleventh Judicial Circuit.

29 (2) Therefore, the maximum annual budget for the Clerk
30 of Court for the Eleventh Judicial Circuit is increased by
31 \$3,817,115 for the county fiscal year 2004-2005.

1 Section 69. It is the intent of the Legislature that
2 the amendments made by this act to sections 28.2402(2),
3 34.191, and 318.21, Florida Statutes, are remedial. It is the
4 further intent of the Legislature that fines and forfeitures
5 or civil penalties arising from offenses or violations
6 committed or occurring within an unincorporated area of a
7 government created under section 6(e), Article VIII of the
8 State Constitution be paid or deposited for Fiscal Year
9 2004-2005 as provided in sections 28.2402(2), 34.191, and
10 318.21, Florida Statutes, as those sections are amended by
11 this act. The section shall take effect upon becoming a law.

12 Section 70. Subsection (4) of section 29.005, Florida
13 Statutes, is repealed.

14 Section 71. Effective July 1, 2006, section 29.014,
15 Florida Statutes, is repealed.

16 Section 72. Section 318.37, Florida Statutes, is
17 repealed.

18 Section 73. Fifteen full-time positions are
19 authorized, and the sum of \$949,414 in recurring funds is
20 appropriated from the General Revenue Fund to the Justice
21 Administrative Commission in salaries and benefits for the
22 2005-2006 fiscal year. The sums of \$110,809 in recurring funds
23 and \$73,502 in nonrecurring funds are appropriated from the
24 General Revenue Fund to the Justice Administrative Commission
25 in expenses for the 2005-2006 fiscal year. The sum of \$62,000
26 in nonrecurring funds is appropriated from the General Revenue
27 Fund to the Justice Administrative Commission in operating
28 capital outlay for the 2005-2006 fiscal year. The sum of
29 \$4,275 in recurring funds is appropriated from the General
30 revenue Fund to the Justice Administrative Commission for
31 human resource services for the 2005-2006 fiscal year.

1 Section 74. The sum of \$1.5 million in recurring funds
2 is appropriated from the General Revenue Fund to the Justice
3 Administrative Commission in public defender due process for
4 the 2005-2006 fiscal year.

5 Section 75. The sum of \$800,000 in recurring funds is
6 appropriated from the General Revenue Fund to the Justice
7 Administrative Commission in state attorney due process for
8 the 2005-2006 fiscal year.

9 Section 76. The sum of \$182,885 in recurring funds is
10 appropriated from the General Revenue Fund to the State
11 Attorney for the Eleventh Judicial Circuit in state attorney
12 operations for the 2005-2006 fiscal year.

13 Section 77. Except as otherwise expressly provided in
14 this act and except for this section, which shall take effect
15 upon becoming a law, this act shall take effect July 1, 2005.

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