



1           3. Criminal contempt; or  
2           4. A violation of a special law or county or municipal  
3 ordinance ancillary to a state charge, or if not ancillary to  
4 a state charge, only if the public defender contracts with the  
5 county or municipality to provide representation pursuant to  
6 ss. 27.54 and 125.69.

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8 The public defender ~~may shall~~ not provide representation under  
9 ~~pursuant to~~ this paragraph if the court, before ~~prior to~~  
10 trial, files in the cause an order of no imprisonment as  
11 provided in s. 27.512;

12           (c) Who is a child taken into custody for a felony, a  
13 misdeemeanor, or criminal contempt, or who is facing  
14 delinquency proceedings under chapter 985 ~~Alleged to be a~~  
15 ~~delinquent child pursuant to a petition filed before a circuit~~  
16 court;

17           (d) Sought by petition filed in such court to be  
18 involuntarily placed as a mentally ill person under part I of  
19 chapter 394, involuntarily committed as a sexually violent  
20 predator under part V of chapter 394, or involuntarily  
21 admitted to residential services as a person with  
22 developmental disabilities under chapter 393. A public  
23 defender ~~may shall~~ not represent any plaintiff in a civil  
24 action brought under the Florida Rules of Civil Procedure, the  
25 Federal Rules of Civil Procedure, or the federal statutes, or  
26 represent a petitioner in a rule challenge under chapter 120,  
27 unless specifically authorized by statute;

28           (e) Convicted and sentenced to death, for purposes of  
29 handling an appeal to the Supreme Court; or

30           (f) Is appealing a matter in a case arising under  
31 paragraphs (a)-(d).

1           (2) Except as provided in s. 985.203, the court may  
2 not appoint the public defender to represent, even on a  
3 temporary basis, any person who is not indigent. The court,  
4 however, may appoint private counsel in capital cases as  
5 provided in ss. 27.40 and 27.5303.

6           Section 2. Subsections (1) and (2) of section 985.203,  
7 Florida Statutes, are amended to read:

8           985.203 Right to counsel.--

9           (1) A child is entitled to representation by legal  
10 counsel at all stages of any proceedings under this part. If  
11 the child and the parents or other legal guardian are indigent  
12 and unable to employ counsel for the child, the court shall  
13 appoint counsel pursuant to s. 27.52. Determination of  
14 indigence and costs of representation shall be as provided by  
15 ss. 27.52 and 938.29. Legal counsel representing a child ~~who~~  
16 ~~exercises the right to counsel~~ shall be allowed to provide  
17 advice and counsel to the child at any time after ~~subsequent~~  
18 ~~to~~ the child's arrest, including before ~~prior to~~ a detention  
19 hearing while the child is in secure detention care. A child  
20 shall be represented by legal counsel at all stages of all  
21 court proceedings unless the right to counsel is freely,  
22 knowingly, and intelligently waived by the child after the  
23 child has been given a meaningful opportunity to confer with  
24 counsel. If the child appears without counsel, the court shall  
25 advise the child of his or her rights with respect to  
26 representation of court-appointed counsel.

27           (2) If the parents or legal guardian of an indigent  
28 child are not indigent but refuse to employ counsel, the court  
29 shall appoint counsel pursuant to s. 27.52 to represent the  
30 child at the detention hearing and until counsel is provided.  
31 Costs of representation shall be ~~are hereby~~ imposed as

1 provided by ss. 27.52 and 938.29. Thereafter, the court may  
2 ~~shall~~ not appoint counsel for an indigent child who has with  
3 nonindigent parents or a nonindigent legal guardian but shall  
4 order the parents or legal guardian to obtain private counsel.  
5 A parent or legal guardian of an indigent child who has been  
6 ordered to obtain private counsel for the child and who  
7 willfully fails to follow the court order shall be punished by  
8 the court in civil contempt proceedings. If the parent or  
9 legal guardian is also the alleged victim in the case, the  
10 court may not order the parent or guardian to obtain private  
11 counsel but shall appoint counsel pursuant to s. 27.52 to  
12 represent the indigent child. At the disposition and upon a  
13 finding by the court that the parent or legal guardian is a  
14 victim of the offense, the parent or legal guardian is not  
15 liable for fees, charges, or costs under s. 27.52, s. 938.29,  
16 or this chapter.

17 Section 3. This act shall take effect July 1, 2006.

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19 SENATE SUMMARY

20  
21 Requires the public defender to represent an indigent  
22 child taken into custody. Requires that a child be given a  
23 meaningful opportunity to confer with counsel. Requires the  
24 court to appoint counsel for an indigent child if the child's  
25 parent or legal guardian is the alleged victim in the case.  
26 Provides that the parent or guardian is not liable for fees,  
27 charges, or costs if the court finds that the parent or  
28 guardian is a victim of the offense.  
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