

1 A bill to be entitled
 2 An act relating to juvenile defendants; amending s. 27.51,
 3 F.S.; requiring that the public defender represent an
 4 indigent child taken into custody for a felony, a
 5 misdemeanor, or criminal contempt; amending s. 985.203,
 6 F.S.; requiring that a child be given a meaningful
 7 opportunity to confer with counsel; requiring that the
 8 court appoint counsel for an indigent child if the child's
 9 parent or legal guardian is the alleged victim in the
 10 case; providing that the parent or legal guardian is not
 11 liable for fees, charges, or costs upon a finding by the
 12 court that the parent or legal guardian is a victim of the
 13 offense; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsections (1) and (2) of section 27.51,
 18 Florida Statutes, are amended to read:

19 27.51 Duties of public defender.--

20 (1) The public defender shall represent, without
 21 additional compensation, any person determined to be indigent
 22 under s. 27.52 and:

23 (a) Under arrest for, or charged with, a felony;

24 (b) Under arrest for, or charged with:

25 1. A misdemeanor authorized for prosecution by the state
 26 attorney;

27 2. A violation of chapter 316 punishable by imprisonment;

28 3. Criminal contempt; or

29 4. A violation of a special law or county or municipal
 30 ordinance ancillary to a state charge, or if not ancillary to a
 31 state charge, only if the public defender contracts with the
 32 county or municipality to provide representation pursuant to ss.
 33 27.54 and 125.69.

34
 35 The public defender may ~~shall~~ not provide representation under
 36 ~~pursuant to~~ this paragraph if the court, before ~~prior to~~ trial,
 37 files in the cause an order of no imprisonment as provided in s.
 38 27.512;

39 (c) Who is a child taken into custody for a felony, a
 40 misdemeanor, or criminal contempt or who is facing delinquency
 41 proceedings under chapter 985 ~~Alleged to be a delinquent child~~
 42 ~~pursuant to a petition filed~~ before a circuit court;

43 (d) Sought by petition filed in such court to be
 44 involuntarily placed as a mentally ill person under part I of
 45 chapter 394, involuntarily committed as a sexually violent
 46 predator under part V of chapter 394, or involuntarily admitted
 47 to residential services as a person with developmental
 48 disabilities under chapter 393. A public defender may ~~shall~~ not
 49 represent any plaintiff in a civil action brought under the
 50 Florida Rules of Civil Procedure, the Federal Rules of Civil
 51 Procedure, or the federal statutes, or represent a petitioner in
 52 a rule challenge under chapter 120, unless specifically
 53 authorized by statute;

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

56 (f) Is appealing a matter in a case arising under

57 paragraphs (a)-(d).

58 (2) Except as provided in s. 985.203, the court may not
 59 appoint the public defender to represent, even on a temporary
 60 basis, any person who is not indigent. The court, however, may
 61 appoint private counsel in capital cases as provided in ss.
 62 27.40 and 27.5303.

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

65 985.203 Right to counsel.--

66 (1) A child is entitled to representation by legal counsel
 67 at all stages of any proceedings under this part. If the child
 68 and the parents or other legal guardian are indigent and unable
 69 to employ counsel for the child, the court shall appoint counsel
 70 pursuant to s. 27.52. Determination of indigence and costs of
 71 representation shall be as provided by ss. 27.52 and 938.29.
 72 Legal counsel representing a child ~~who exercises the right to~~
 73 ~~counsel~~ shall be allowed to provide advice and counsel to the
 74 child at any time after ~~subsequent to~~ the child's arrest,
 75 including before ~~prior to~~ a detention hearing while the child is
 76 in secure detention care. A child shall be represented by legal
 77 counsel at all stages of all court proceedings unless the right
 78 to counsel is freely, knowingly, and intelligently waived by the
 79 child after the child has been given a meaningful opportunity to
 80 confer with counsel. If the child appears without counsel, the
 81 court shall advise the child of his or her rights with respect
 82 to representation of court-appointed counsel.

83 (2) If the parents or legal guardian of an indigent child
 84 are not indigent but refuse to employ counsel, the court shall

85 | appoint counsel pursuant to s. 27.52 to represent the child at
86 | the detention hearing and until counsel is provided. Costs of
87 | representation shall be ~~are hereby~~ imposed as provided by ss.
88 | 27.52 and 938.29. Thereafter, the court may ~~shall~~ not appoint
89 | counsel for an indigent child who has ~~with~~ nonindigent parents
90 | or a nonindigent legal guardian but shall order the parents or
91 | legal guardian to obtain private counsel. A parent or legal
92 | guardian of an indigent child who has been ordered to obtain
93 | private counsel for the child and who willfully fails to follow
94 | the court order shall be punished by the court in civil contempt
95 | proceedings. If the parent or legal guardian is also the alleged
96 | victim in the case, the court may not order the parent or legal
97 | guardian to obtain private counsel but shall appoint counsel
98 | pursuant to s. 27.52 to represent the indigent child. At the
99 | disposition and upon a finding by the court that the parent or
100 | legal guardian is a victim of the offense, the parent or legal
101 | guardian is not liable for fees, charges, or costs under s.
102 | 27.52, s. 938.29, or this chapter.

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